THE NATIONAL ARCHIVES

FEDERAL REGISTER

VOLUME 14 NUMBER 37

Washington, Friday, February 25, 1949

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration, Department of Agriculture

Subchapter B—Federal Farm Loan System

[FCA Order 495]

PART 10—FEDERAL LAND BANKS GENERALLY

INTEREST RATES ON LOANS MADE THROUGH AN ASSOCIATION OR BY A BRANCH BANK

Section 10.4 of Title 6 of the Code of Federal Regulations is hereby amended to read as follows:

§ 10.4 *Interest rates on loans made through an association or by a branch bank.* Approval is hereby given to an interest rate of 4 per centum per annum on loans by banks through associations generally, and to an interest rate of 4½ per centum per annum on:

(a) Loans by the Federal Land Bank of Columbia applied for through associations on and after August 1, 1948;

(b) Loans by the Federal Land Bank of Springfield applied for through associations on and after January 1, 1949; and

(c) Loans made by a branch bank pursuant to section 672, Title 12, United States Code;

notwithstanding that the interest rate on the Federal farm loan bonds of the last series issued prior to the making of any such loans may be less than 3 per centum per annum (but for higher interest rates approved for loans on special classes of property in the continental United States, see § 10.5). [22]

(Sec. 6, 47 Stat. 14, Secs. 4, 12 (Second), 17 (b), 39 Stat. 362, 370, 375, as amended; 12 U. S. C. 665, 672, 771 (Second), 831 (b))

[SEAL] I. W. DUGGAN,
Governor,
Farm Credit Administration.

FEBRUARY 17, 1949.

[F. R. Doc. 49-1432; Filed, Feb. 24, 1949; 8:51 a. m.]

Subchapter F—Banks for Cooperatives

[FCA Order 496]

PART 70—LOAN INTEREST RATES AND SECURITY

INTEREST RATES ON LOANS

Sections 70.5 and 70.6 of Title 6 of the Code of Federal Regulations are hereby amended to read as follows:

§ 70.5 *Interest rate on continental loans and loans made in Puerto Rico upon the security of commodities.* Except as may be specified in § 70.6, the per annum rate of interest on all loans made upon the security of commodities on and after the dates specified below by the district banks for cooperatives for the purposes specified in section 7 (a) (1) of the Agricultural Marketing Act, as amended (sec. 7, 46 Stat. 14; 12 U. S. C. 1141e), shall be as follows:

Effective date	District Bank for Cooperatives	Rate (per-cent)
Sept. 1, 1948	All district banks—except Columbia.	2¼
Mar. 1, 1949	Columbia	2½
Sept. 1, 1948	Baltimore—loans in Puerto Rico.	2¾

[90]

§ 70.6 *Interest rate on continental loans and loans made in Puerto Rico upon the security of Commodity Credit Corporation loan documents.* The rate of interest on the above loans made on and after the dates stated below, by the district banks for cooperatives, shall be as follows:

Effective date	District Bank for Cooperatives	Rate (per-cent)
Sept. 1, 1948	All district banks—except Columbia.	2¼
Mar. 1, 1949	Columbia	2½
Sept. 1, 1948	Baltimore—loans in Puerto Rico.	2¾

[90]

(Sec. 8, 46 Stat. 14, as amended; 12 U. S. C. 1141f)

[SEAL] I. W. DUGGAN,
Governor.

FEBRUARY 18, 1949.

[F. R. Doc. 49-1451; Filed, Feb. 24, 1949; 8:56 a. m.]

CONTENTS

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1947.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspection, Marketing Practices), Department of Agriculture

PART 51—FRUITS, VEGETABLES AND OTHER PRODUCTS (GRADING, CERTIFICATION AND STANDARDS)

UNITED STATES CONSUMER STANDARDS FOR CELERY STALKS

On January 20, 1949, a notice of rule making was published in the FEDERAL REGISTER (F. R. Doc. 49-509; 14 F. R. 295) regarding proposed United States Consumer Standards for Celery Stalks. After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, the following United States Consumer Stand-

ards for Celery Stalks are hereby promulgated under the authority contained in the Department of Agriculture Approporiation Act, 1949 (Pub. Law 712, 80th Cong., approved June 19, 1948).

§ 51.176 *Consumer standards for celery stalks*—(a) *General.* (1) These standards do not apply to celery hearts.

(b) *Grades*—(1) *U. S. Grade AA.* U. S. Grade AA shall consist of stalks of celery of similar varietal characteristics, which are well developed, and have good heart formation: which are clean, well trimmed, fairly compact, and are free from blackheart, brown stem, decay (except dry type crater rot), doubles, and from damage caused by crater rot, wilting, cutworms, freezing, suckers, growth cracks, hollow crown, pithy branches, seedstems, rust, cracked stem, other diseases, insects or mechanical or other means.

(i) The average midrib length of the outer whorl of branches on stalks in this grade shall be not less than 7 inches. (See Blanching and Length of Stalks.)

(ii) Incident to proper grading and handling other than for average midrib length of branches not more than 5 percent, by count, of the stalks in any lot may fail to meet the requirements of the grade including not more than 1 percent for stalks affected by moist type decay. In addition, not more than 3 percent, by count, of the stalks in any lot may fail to meet the requirements as to average midrib length of the stalks.

(2) *U. S. Grade A.* U. S. Grade A shall consist of stalks of celery of similar varietal characteristics which are fairly well developed and have fairly good heart formation; which are clean, well trimmed, and not badly spread, and which are free from blackheart, decay (except dry type crater rot), doubles, and from damage caused by crater rot, brown stem, wilting, cutworms, freezing, suckers, growth cracks, hollow crown, pithy branches, seedstems, rust, cracked stem, other diseases, insects, or mechanical or other means.

(i) The average midrib length of the outer whorl of branches on stalks in this grade shall be not less than 5 inches. (See Blanching and Length of Stalks.)

(ii) Incident to proper grading and handling other than for average midrib length of branches, not more than 5 percent, by count, of the stalks in any lot may fail to meet the requirements of the grade including not more than 1 percent for stalks affected by moist type decay. In addition, not more than 3 percent, by count, of the stalks in any lot may fail to meet the requirements as to average midrib length of the stalks.

(3) *U. S. Grade B.* U. S. Grade B shall consist of stalks of celery of similar varietal characteristics which are fairly well developed, which are clean, well trimmed and free from blackheart, decay (except dry type crater rot), doubles, and from serious damage caused by crater rot, brown stem, wilting, cutworms, freezing, suckers, growth cracks, hollow crown, pithy branches, seedstems, rust, cracked stem, other diseases, insects, or mechanical or other means.

(i) The average midrib length of the outer whorl of branches on stalks in this grade shall be not less than 4 inches. (See Bleaching and Length of Stalks.)

(ii) Incident to proper grading and handling other than for average midrib length of branches, not more than 5 percent, by count, of the stalks in any lot may fail to meet the requirements of this grade including not more than 1 percent for stalks affected by moist type decay. In addition not more than 3 percent, by count, of the stalks in any lot may fail to meet the requirements as to average midrib length of the stalks.

(c) *Blanching.* There are no requirements in the grades as to blanching. However, celery stalks may be classed as "green" when they have a medium to dark green appearance, "fairly well blanched" when the midrib portions of the branches on the stalks are generally of a light greenish to creamy white color, or "well blanched" when the midrib portions of the branches on the stalks are generally of a creamy white color. Not more than 5 percent of the stalks in any lot may fail to meet the requirements of any of the above classes.

(d) *Length of stalks.* There are no requirements in the grades as to stalk length. However, when the stalk length is specified it shall be determined by measuring the distance from where the main root is cut off, to a point which represents the average length of the longest branches and leaves expressed in terms of the nearest whole inch. Incident to proper sizing, not more than 5 percent, by count, of the stalks in any lot may fail to meet any specified stalk length.

(e) *Off-grade celery.* Celery stalks which fail to meet the requirements of any of the foregoing grades shall be Off-Grade celery stalks.

(f) *Definitions.* (1) "Stalk" means an individual plant.

(2) "Similar varietal characteristics" means that the stalks in any container have the same character of growth. For example, celery of Giant Pascal and Golden Self Blanching types must not be mixed.

(3) "Well developed" means that the outer branches are of good width in relation to the length of midribs and type of celery.

(4) "Good heart formation" means that the stalk has a reasonable number of stocky inner heart branches for its size.

(5) "Clean" means that the stalk is practically free from dirt or other foreign materials. Stalks shall be permitted to have a small amount of dirt on the inside of the branches or in the heart branches which cannot be removed by good commercial methods of washing.

(6) "Well trimmed" means that the outside coarse and damaged branches have been removed and that the root or roots have been neatly trimmed to a reasonable length for the size of the stalk.

(7) "Fairly compact" means that the branches are fairly close together on the stalk.

(8) "Damage" means any injury or defect which materially affects the appearance, or edible or shipping quality. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(i) Crater rot, when moist, or when occurring on more than 2 branches, or when aggregating more than two-thirds of a square inch on the branch or branches.

(ii) Cutworms, when the worms are present, or when worm injury occurs on the heart branches, or when occurring on the midrib portion of more than two branches, or when aggregating more than one-half of a square inch on the midrib portion of the branch or branches.

(iii) Growth cracks, when the stalk has more than one branch affected by growth cracks any of which are more than one-half inch long.

(iv) Pithy branches, when the midribs of more than one branch are pithy. Pithy branches means those which have a distinctly open texture with air spaces in the central portion.

(v) Seedstems, when the stalk has a seedstem the length of which is more than one and one-half times the greatest diameter of the stalk. The greatest diameter of the stalk shall be measured at a point two inches above the point of attachment of the outer branches to the root. The length of the seedstem shall be measured from the point of attachment of the outer branches at the base of the seedstem to the top of the actual seedstem, exclusive of any leaves or leaf stems attached to the top of the seedstem.

(vi) Rust, when there are more than five hair-like lines of any length on one or more heart branches, or when there is more than one square inch in the aggregate on branches other than heart branches.

(vii) Cracked stem, when there is more than one-half of a square inch in the aggregate on any or all branches.

(9) "Midrib length" of a branch means the distance between the point of attachment to the root and the first node.

(10) "Fairly well developed" means that the outer branches are not spindly or abnormally short and thin.

(11) "Fairly good heart formation" means that the stalk has a moderate number of fairly stocky inner heart branches for its size.

(12) "Serious damage" means any injury or defect which seriously affects the appearance, or edible or shipping quality. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(i) Crater rot, when moist, or when occurring on more than three branches, or when aggregating more than one square inch on the branch or branches.

(ii) Cutworms, when the worms are present, or when worm injury occurs on the heart branches, or when occurring on the midrib portion of more than three branches, or when aggregating more than one square inch on the midrib portion of the branch or branches.

(iii) Growth cracks, when the stalk has more than two branches affected by growth cracks any of which are more than one-half inch long.

(iv) Pithy branches, when the midribs of more than two branches are pithy. Pithy branches means those which have a distinctly open texture with air space in the central portion.

(v) Seedstems, when the stalk has a seedstem the length of which is more than three times the greatest diameter of the stalk. The greatest diameter of the stalk shall be measured at a point two inches above the point of attachment of the outer branches to the root. The length of the seedstem shall be measured from the point of attachment of the outer branches at the base of the seedstem to the top of the actual seedstem, exclusive of any leaves or leafstems attached to the top of the seedstem.

(vi) Rust, when there are more than fifteen hair-like lines of any length on one or more heart branches, or when there are more than one and one-half square inches in the aggregate on branches other than heart branches.

(vii) Cracked stem, when there is more than one square inch in the aggregate on any or all branches.

(g) *Effective time.* The United States Consumer Standards for Celery Stalks contained in this section shall become effective thirty (30) days after the date of publication in the FEDERAL REGISTER (Pub. Law 712, 80th Cong.).

Done at Washington, D. C., this 18th day of February 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-1453; Filed, Feb. 24, 1949; 8:56 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

[3d Gen. Rev. of Export Regs., Amdt. 46]

PART 372—GENERAL LICENSES

GENERAL IN-TRANSIT LICENSE

Section 372.9 *General in-transit license "GIT"* is amended in the following particulars:

The list of commodities set forth in paragraph (c) is amended by adding thereto the following commodities:[1]

Commodity	Schedule B No.	Schedule S No.
Electrolytic cells (commonly called flourine cells)	775050	745
Anhydrous hydrofluoric acid	839080	830
Freons	839100	830
Fluorine	839500	830
Genetrons	839500	830
Deuterium and deuterium compounds, including heavy water	839900	830
Fluorocarbons (completely fluorinated materials)	839900	830

[1] The Schedule B numbers set forth in this amendment are the Schedule B numbers as revised in the January 1, 1949, edition of "Schedule B Statistical Classification of Domestic and Foreign Commodities Exported from the United States."

(Sec. 6, 54 Stat. 714, as amended, 61 Stat. 945; 50 U. S. C. App., Sup. 633, 50 U. S. C. App. and Sup. 701; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

This amendment shall become effective February 18, 1949.

Dated: February 16, 1949.

FRANCIS MCINTYRE,
Assistant Director, Office of International Trade.

[F. R. Doc. 49-1448; Filed, Feb. 24, 1949; 8:56 a. m.]

[3d Gen. Rev. of Export Regs., Amdt. P. L. 19]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

DEUTERIUM AND DEUTERIUM COMPOUNDS, INCLUDING HEAVY WATER AND FODDERS AND FEEDS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:[1]

1. The following commodity is added to the Positive List:

Dept. of Comm. Sched. B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits
839900	Industrial chemicals (exclusive of medicinal chemicals, U. S. P. and N. F.): Deuterium and deuterium compounds, including heavy water.	------	Salt---	None.

This part of the amendment shall become effective February 4, 1949, except that shipments of the commodity listed in this part of the amendment which were on dock, on lighter, laden aboard an exporting carrier or in transit to a port of exit pursuant to an actual order for export prior to February 4, 1949, may be exported under the previous general license provisions until February 11, 1949.

2. The following commodities are deleted from the Positive List:

Dept. of Comm. Sched. B No.	Commodity
	Fodders and feeds, n. e. s.:
118000	Mixed dairy and poultry feeds with crude protein content of 25% or less.
118500	Other prepared or mixed feeds with crude protein content of 25% or less.
118800	Corn grits and corn meal.
118800	Cracked corn.
118800	Gluten corn feed.
119000	Cracked or crushed wheat for feed.
119000	Other wheat feeds.
119900	Brewers' grain, dried.
119900	Cull beans.
119900	Dried beet pulp.
119900	Dried molasses pulp.
119900	Grain screenings.
119900	Hominy feeds.
119900	Hulled oats.
119900	Oat feed.
119900	Rice mill feeds.
119900	Rolled barley for feed.
119900	Rye mill feeds.
	Petroleum and products:
504600	Paraffin wax, refined, with melting point below or above the ranges of 125/127 through 128/130 degress AMP.
	Other nonmetallic minerals, including precious:
548500	Plasterboard and wallboard (include lath).
596025	Mineral wax: ceresin, orange and white only; hardening.
	Miscellaneous commodities, n. e. s.:
983200	Candles.

This part of the amendment shall become effective February 4, 1949.

3. There is added a qualifying footnote reference meaning "May be exported under general license to the Philippine Islands and to all destinations in North and South America as listed in Schedule C of the Bureau of the Census", with respect to the following commodities:

Dept. of Comm. Sched. B No.	Commodity
	Fodders and feeds, n. e. s.:
118500	Dried, powdered, or condensed milk or buttermilk products for feed, regardless of protein content.
118500	Milk sugar feed, regardless of protein content.

(Sec. 6, 54 Stat. 714, as amended, 61 Stat. 945; 50 U. S. C. App., Sup., 633, 50 U. S. C. App. and Sup. 701; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

This part of the amendment shall become effective February 4, 1949.

Dated: February 17, 1949.

FRANCIS MCINTYRE,
Assistant Director, Office of International Trade.

[F. R. Doc. 49-1445; Filed, Feb. 24, 1949; 8:55 a. m.]

[3d Gen. Rev. of Export Regs., Amdt. P. L. 20]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

DELETION OF MISCELLANEOUS COMMODITIES

Section 399.1 *Appendix A—Positive List of Commodities* is amended by deleting therefrom the following commodities:

Dept. of Comm. Sched. B. No.	Commodity
	Drugs, herbs, leaves, and roots, crude:
220904	Cinchona bark.
	Coal-tar products:
800700	Coal-tar pitch.
	Medicinal and pharmaceutical preparations:
813587	Quinine sulfate (formerly 812730) and quinine hydrochloride (formerly 812750) in bulk form only.
	Pigments, paints, and varnishes:
841400	Lithopone.

(Sec. 6, 54 Stat. 714, as amended, 61 Stat. 945; 50 U. S. C. App., Sup. 633, 50 U. S. C. App. and Sup. 701; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

This amendment shall become effective February 18, 1949.

Dated: February 16, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-1446; Filed, Feb. 24, 1949; 8:55 a. m.]

[3d Gen. Rev. of Export Regs., Amdt. P. L. 21]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

DELETION OF MISCELLANEOUS COMMODITIES

Section 399.1 *Appendix A—Positive List of Commodities* is amended by deleting therefrom the following commodities:[1]

Dept. of Comm. Sched. B No.	*Commodity*
	Meat products:
	Pork, except canned:
002700	Fatback pork, fresh or frozen.
002900	Fat pork, dry-salted; porkback, dry-salted.
003200	Fatback pork, pickled or salted.
	Animal oils and fats, edible:
005000	Oleo oil.
005100	Oleo stock.
005200	Tallow (report inedible tallow in 085700).
005300	Lard, including neutral lard (report lard substitutes in 144700).
005600	Oleo stearin (report lard stearin in 084300).
	Dairy products:
006550	Butter, natural.
006998	Butter oil.
006998	Butter spreads.
	Animal and fish oils and greases, inedible:
080905	Sperm and whale oil.
	Nuts and preparations:
137510	Peanuts, shelled, for planting.
137510	Peanuts, shelled, other.
137550	Peanuts, not shelled, for planting.
137550	Peanuts, not shelled, other.
	Vegetable oils and fats, edible:
142000	Coconut oil, refined (include solidified or hardened oil and coconut fat).
142500	Cottonseed oil, refined (include Wesson oil and hydrogenated cottonseed oil).
143000	Soybean oil, refined (report crude soybean oil in 224912).
143100	Peanut oil.
143500	Palm oil, edible or refined (all varieties).
144100	Corn oil (include Mazola and Amaizo).
144300	Oleomargarine of vegetable or animal origin.
144700	Cooking fats, except lard (include Crisco, Snowdrift, and all lard substitutes of animal or vegetable origin).
144901	Olive oil, edible.
144902	Sunflower seed oil, edible.
144904	Rapeseed oil, refined.
144905	Vegetable stearin.
144998	Edible vegetable oils and fats, n. e. s.
	Oilseeds:
221000	Soy beans for planting.
221000	Soy beans, other, except canned.
222001	Castor beans for planting.
222001	Castor beans, other.
222002	Cottonseed for planting.
222002	Cottonseed, other.
222020	Hemp seed for planting.
222020	Hemp seed, other.
222020	Rapeseed for planting.
222020	Rapeseed, other.
222020	Sunflower seed for planting.
222020	Sunflower seed, other.
222020	Palm nuts and kernels.
222030	Copra.
222098	Other oilseeds for planting.
222098	Other oilseeds.
	Vegetable oils and fats, inedible: Expressed oils (except essential), and fats, inedible:
223000	Coconut oil, crude.
223100	Cottonseed oil, crude.
224901	Castor oil, commercial.
224902	Corn oil, crude.
224903	Peanut oil, crude.
224906	Rapeseed oil, inedible.
224912	Soybean oil, crude (report soybean oil, refined, in 143000).
224927	Palm oil, crude (all varieties).
224950	Sunflower seed oil, inedible.
224998	Babassu nut oil and sesame oil.
224998	Palm kernel oil.
	Medicinal and pharmaceutical preparations:
811100	Castor oil (report commercial grades in 224901).

(Sec. 6, 54 Stat. 714, as amended, 61 Stat. 945; 50 U. S. C. App., Supp., 633, 50 U. S. C. App. and Sup. 701; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

This amendment shall become effective February 10, 1949.

Dated: February 18, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-1447; Filed, Feb. 24, 1949; 8:55 a. m.]

[1] The Schedule B numbers set forth in this amendment are the Schedule B numbers as revised in the January 1, 1949, edition of "Schedule B Statistical Classification of Domestic and Foreign Commodities Exported from the United States".

TITLE 22—FOREIGN RELATIONS

Chapter II[1]—Economic Cooperation Administration

[ECA Reg. 1, Interpretation 1]

PART 201[2]—PROCEDURES FOR FURNISHING ASSISTANCE TO PARTICIPATING COUNTRIES

DOCUMENTARY PAYMENTS

Questions have been raised by banking institutions in the United States concerning their responsibilities in connection with Letters of Commitment issued to them pursuant to ECA Regulation 1, as amended October 15, 1948. The following, which have been approved by ECA General Counsel, reflect ECA interpretations of Regulation 1, as so amended, such interpretations being based upon the Foreign Assistance Act of 1948, with recognition of ordinary banking uses and necessities in handling documentary payments. Part I of these interpretations sets forth the general rules for determining the responsibilities of a banking institution in the United States (hereinafter called "bank") under the regulation, and under Letters of Commitment and Procurement Authorizations issued by ECA. Part II gives some examples of the application of these rules to specific cases. Part III contains certain other explanations of the procedure described in the regulation.

NOTE: All section numbers set forth below correspond to redesignation indicated above. For purposes of comparison with original numbers, 201 in each instance is a substitute for the original 1111 designation.

Part I—General rules

1. Documents required for reimbursement are not enumerated in § 201.18. Any additional documents required for reimbursement with respect to any particular transaction will be specified as such in the Procurement Authorization related to that transaction and to the corresponding Letter of Commitment, or in the Letter of Commitment itself. A bank holding a Letter of Commitment is not required by ECA to obtain any documents other than those enumerated in § 201.18 and any additional documents so specified.

2. A bank is not responsible for the truth or accuracy of the statements contained in the Supplier's Certificate or in any of the other documents required for reimbursement. A bank is not obliged to look beyond these documents nor to make independent investigation as to the accuracy of statements made therein.

3. A bank's examination of the documents required for reimbursement must be in accordance with good commercial practice. A bank is responsible to see that the documents required for reimbursement are consistent with the relative Procurement Authorization and Letter of Commitment in the following particulars, and no other:

(a) Delivery, to the extent described in paragraph 4, below;

(b) Source, to the extent described in paragraph 5, below;

(c) Destination, to the extent described in paragraph 6, below;

(d) Description, to the extent described in paragraph 7, below;

(e) Insurance, to the extent described in paragraph 8, below;

(f) If the bank is to be responsible for any additional particulars, these will be specified in the Procurement Authorization or Letter of Commitment as additional documents required for reimbursement, or as additional statements to be contained in the documents required for reimbursement.

The right of reimbursement for payments made by a bank in accordance with good commercial practice will not be affected by the fact that the documents received by the bank, or information or notice derived from any source, indicate non-compliance with any pro-

[1] Formerly Chapter III.
[2] Formerly Part 1111.

vision of ECA Regulation 1, or of the Procurement Authorization or of the Letter of Commitment, in any particular except those listed in subparagraphs (a), to (f) above.

The foregoing shall not be construed to limit any rights the Administrator may have against a supplier by reason of statements contained in the Supplier's or Beneficiary's Certificate, nor against a participating country under § 201.6 (e).

Part II—Specific examples

4. *Delivery.* The Procurement Authorization will ordinarily show the calendar quarter during which delivery is to be made by the supplier. Section 201.12 permits deliveries within 60 days before or 90 days after that quarter. If any of the documents specified in § 201.18 (a) (3) or (b) (3), or (c) (2) (or in the Procurement Authorization or Letter of Commitment) are dated at any time within the entire 8-month period, they are acceptable. In practice, it is contemplated that each Letter of Commitment will specify a maturity date not later than the end of such 8-month period. The 60 days before are to be construed as two calendar months or 60 days, whichever is longer. The 90 days after are to be construed as three calendar months or 90 days, whichever is longer.

5. *Source.* If the documents required for reimbursement show shipment from or storage in the area of source shown in the Procurement Authorization, they are acceptable. If such documents show shipment from or storage in another area, the requirement as to source will be satisfied if the bank receives a certificate from the supplier, indicating that the area of source is in fact the same as that indicated in the Procurement Authorization.

6. *Destination.* The Procurement Authorization will show the recipient country. If the documents required for reimbursement are consistent, under good commercial practice, with shipment or trans-shipment to such country, they are acceptable.

7. *Description.* The Procurement Authorization will show the commodity or services by description and ECA commodity code number. In issuing or confirming credits a bank should see that the commodities or services described are not inconsistent with the ECA description and commodity code number. In making payments, whether under letters of credit or otherwise, the bank should act in accordance with good commercial practice, based on the description and without regard to the commodity code number.

8. *General provisions of Procurement Authorizations.* Section 201.6 sets forth certain provisions to be deemed incorporated in each Procurement Authorization, unless otherwise specified. The standard documents required for reimbursement by § 201.18 include certificates showing compliance with some of these provisions (e. g., filing with ECA of copies of contracts; §§ 201.6 (g) and 201.18 (a) (2), and the bank is entitled to rely on such a certificate. Special certificates may also be required by the terms of particular Procurement Authorizations or Letters of Commitment, and in such cases a bank is entitled to rely on such certificate.

Certain other provisions are included solely for the instruction of suppliers, purchasers, and the participating countries themselves, and are not matters for which banks are to assume responsibility. In this category are the provisions of § 201.6 (b) *Discounts,* § 201.6 (f) *Export licenses,* § 201.6 (h) *Airmail distribution of ocean bills of lading,* and § 201.6 (i) *Price limitations.*

As to § 201.6 (j) *Insurance,* a bank is not required to make independent inquiry as to whether the invoice price includes insurance premiums on ocean shipment, but should not make payment of any such items when disclosed by the documents required for reimbursement.

9. *Ocean transportation.* A bank which obtains a Supplier's Certificate (§ 201.18 (b) (5) or Annex A or Annex B to Exhibit B) is not required to assume responsibility for compliance with § 201.7, regardless of whether other documentation or information received indicates compliance or noncompliance with such section.

Part III—Other matters

10. *Past transactions not covered by procurement authorizations.* Section 201.5 concerns the issuance of Procurement Authorizations for past transactions. Banks financing transactions under Letters of Commitment or Procurement Authorizations are not required to assume responsibility for compliance with this section.

11. *Responsibilities of importers and suppliers.* Subpart B (§§ 201.11 to 201.13) contains provisions concerning use of the Procurement Authorization number, placement of orders and delivery dates, and marking of commodities. Banks financing transactions under Letters of Commitment or Procurement Authorizations are not required to assume responsibility for compliance with this subpart.

12. *Transitory provisions.* When the Procurement Authorization is issued on any form other than ECA Form 203 (white paper), even though issued or amended on or after October 15, 1948, or coupled with a Letter of Commitment issued or amended on or after October 15, 1948, standard documentation may be either in the form permitted under ECA Regulation 1, as amended October 15, 1948, or in the form specified in the Procurement Authorization or Letter of Commitment. In the case of a Procurement Authorization so issued, the payment or non-payment for insurance on ocean shipments depends upon the terms thereof, or of the related Letter of Commitment, and § 201.6 (j) is not applicable.

13. *Bank Letter of Commitment; expiration in Letter of Credit Transactions.* The Letter of Commitment constitutes an obligation to reimburse for any drafts negotiated under letters of credit prior to the date of maturity specified in the Letter of Commitment, even though such drafts are paid after such date.

14. *Bank Letter of Commitment; payment to third persons.* The right of reimbursement for a payment made by a bank under a Letter of Commitment will not be affected by the fact that such payment is made to the Approved Applicant named in the Letter of Commitment or, at the request of the Approved Applicant, to a person other than the supplier, provided the bank has complied with the other requirements of the Letter of Commitment and has satisfied itself in good faith that the person to whom it makes payment has made payment to the supplier.

15. *Parcel post receipts.* Parcel post receipts may be accepted by a bank in lieu of ocean bills of lading.

(Sec. 104 (f), Pub. Law 472, 80th Cong.)

PAUL G. HOFFMAN,
Administrator for Economic Cooperation.

[F. R. Doc. 49-1401; Filed, Feb. 24, 1949; 8:50 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VIII—Office of the Housing Expediter

[Controlled Housing Rent Reg., Amdt. 68 [1]]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, item 13, is amended to describe the counties in the Defense-Rental Area as follows:

That portion of Santa Cruz County which is within the corporate limits of the City of Nogales, and the following portions of Cochise County: Township 24 south, Range 28 east; Township 24 south, Range 27 east; Township 23 south, Range 24 east; Township 24 south, Range 24 east; Township 20 south, Range 22 east; Township 17 south, Range 20 east; Township 13 south, Range 25 east; and Township 14 south, Range 25 east.

This decontrols from §§ 825.1 to 825.12 all of Cochise County in the Ft. Huachuca, Arizona, Defense-Rental Area, except the Townships specified in Schedule A, item 13, as hereby amended.

2. Schedule A, item 88a, is amended to describe the counties in the Defense-Rental Area as follows:

Fulton, McDonough and that portion of Mason County which is within the City of Havana.

This decontrols from §§ 825.1 to 825.12 all of Mason County in the Macomb-Canton, Illinois, Defense-Rental Area, except the City of Havana.

3. Schedule A, item 202c, is amended to describe the counties in the Defense-Rental Area as follows:

Fulton County except the Towns of Bleecker, Caroga, Oppenheim, Perth and Stratford.

This decontrols from §§ 825.1 to 825.12 the Towns of Bleecker, Caroga, Oppenheim, Perth, and Stratford, all in the

[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627.

Gloversville, New York, Defense-Rental Area.

(Sec. 204 (d) 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec. 204 (c), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (c))

This amendment shall become effective February 25, 1949.

Issued this 21st day of February 1949.

TIGHE E. WOODS,
Housing Expediter.

Statement To Accompany Amendment 68 to the Controlled Housing Rent Regulation

It is the judgment of the Housing Expediter that the need for continuing maximum rents in the portions of the Defense-Rental Areas specified below no longer exists due to the fact that the demand for rental housing accommodations has been reasonably met:

1. All of Cochise County in the Ft. Huachuca, Arizona, Defense-Rental Area, except those Townships in which are located the cities of Douglas, Bisbee, Tombstone, Benson and Willcox and their surrounding areas.

2. All of Mason County in the Macomb-Canton, Illinois, Defense-Rental Area, except the City of Havana.

3. In the Gloversville, New York, Defense-Rental Area, the Towns of Bleecker, Caroga, Oppenheim, Perth and Stratford.

This amendment is, therefore, being issued to decontrol said portions of said Defense-Rental Areas in accordance with section 204 (e) of the Housing and Rent Act of 1947, as amended.

[F. R. Doc. 49-1456; Filed, Feb. 24, 1949; 8:56 a. m.]

[Controlled Rooms in Rooming Houses and Other Establishments. Rent Reg., Amdt. 66 [1]]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishment (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, Item 13, is amended to read as follows:

(13) [Revoked and decontrolled]

This decontrols from §§ 825.81 to 825.92 all of the Ft. Huachuca, Arizona, Defense-Rental Area.

2. Schedule A, item 88a, is amended to describe the counties in the Defense-Rental Area as follows:

Fulton, McDonough and that portion of Mason County which is within the City of Havana.

This decontrols from §§ 825.81 to 825.92 all of Mason County in the Macomb-Canton, Illinois, Defense-Rental Area, except the City of Havana.

3. Schedule A, item 202c, is amended to describe the counties in the Defense-Rental Area as follows:

Fulton County except the Towns of Bleecker, Caroga, Oppenheim, Perth and Stratford.

This decontrols from §§ 825.81 to 825.92 the Towns of Bleecker, Caroga, Oppenheim, Perth and Stratford, all in the Gloversville, New York, Defense-Rental Area.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec 204 (c), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (c))

This amendment shall become effective February 25, 1949.

Issued this 21st day of February 1949.

TIGHE E. WOODS,
Housing Expediter.

Statement To Accompany Amendment 66 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments

It is the judgment of the Housing Expediter that the need for continuing maximum rents in the portions of the Defense-Rental Areas specified below no longer exists due to the fact that the demand for rental housing accommodations has been reasonably met:

1. All of the Ft. Huachuca, Arizona, Defense-Rental Area.

2. All of Mason County in the Macomb-Canton, Illinois, Defense-Rental Area, except the City of Havana.

3. In the Gloversville, New York, Defense-Rental Area, the Towns of Bleecker, Caroga, Oppenheim, Perth and Stratford.

This amendment is, therefore, being issued to decontrol said portions of said Defense-Rental Area in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

[F. R. Doc. 49-1455; Filed, Feb. 24, 1949; 8:56 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 5689]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

FIGURE TO BE USED IN DETERMINING RESERVE AND OTHER POLICY LIABILITY CREDIT FOR LIFE INSURANCE COMPANIES

Correction

FEBRUARY 21, 1949.

The date which appears above the first paragraph of F. R. Doc. 49-1439 on page 828 of the issue for Thursday, February 24, 1949, has been changed on the original document to read as set forth above.

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 559]

ARIZONA AND CALIFORNIA

HAVASU LAKE NATIONAL WILDLIFE REFUGE; ENLARGED

By virtue of the authority vested in the President by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497 (43 U. S. C. 141, 142), and otherwise, and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, those parts of the following-described lands in Arizona and California, outside of the present boundary of the Havasu Lake National Wildlife Refuge as established by Executive Order No. 8647 of January 22, 1941, are hereby added to the refuge, and such lands shall be administered in accordance with the provisions contained in the said Executive Order:

ARIZONA

GILA AND SALT RIVER MERIDIAN

T. 11 N., R. 18 W.,
Sec. 4, W½;
T. 13 N., R. 20 W.,
Sec. 4, W½E½ and E½W½;
Secs. 16 and 20;
Sec. 21, lot 4, E½NE¼, SW¼NE¼, NE¼NW¼NE¼, NE¼SE¼NW¼ and S½SE¼NW¼;
T. 14 N., R. 20 W.,
Sec. 18;
Sec. 20, W½ and SE¼;
T. 14 N., R. 20½ W.,
Sec. 2;
T. 15 N., R. 20½ W.,
Sec. 35, lots 2, 3, 4, 5, and SW¼SW¼SE¼;
Sec. 36, SW¼;
T. 15 N., R. 21 W.,
Sec. 2;
T. 17 N., R. 21 W.,
Sec. 28, W½W½ and NE¼;
Sec. 33, W½NW¼ and NW¼SW¼;

The areas described including both public and non-public lands aggregate approximately 1,677 acres.

CALIFORNIA

SAN BERNARDINO MERIDIAN

T. 6 N., R. 24 E.,
Secs. 2, 11, 14, and 23;
T. 7 N., R. 24 E.,
Sec. 6, lots 5, 7, SE¼NW¼, NE¼SW¼ and N½SE¼;

The areas described aggregate approximately 1,080 acres.

The lands are within the Parker Dam Project and are subject to use for the purposes of that Project. Portions of the lands are named in a withdrawal made February 2, 1907, for the Chemehuevi Valley Mission Indians, the reservation for power purposes made May 5, 1922, under section 24 of the act of June 10, 1920, as amended, C. 285, 41 Stat. 1075 (16 U. S. C. 818) in connection with Federal Power Project No. 30, Power Site Classification No. 55 approved by the Secretary of the Interior June 22, 1923, the order of March 6, 1936, of the Secretary of the Interior,

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627.

establishing Arizona Grazing District No. 2, and Public Land Order 126 of May 20, 1943 reserving lands for an aerial gunnery range, as well as the first and second form reclamation withdrawals in connection with the above mentioned project.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

FEBRUARY 11, 1949.

[F. R. Doc. 49-1427; Filed, Feb. 24, 1949; 8:51 a. m.]

[Public Land Order 560]

WYOMING

RESERVING CERTAIN PUBLIC LANDS IN CONNECTION WITH TONGUE RIVER DEER REFUGE AND WINTER PASTURE

Whereas the act of September 2, 1937, 50 Stat. 917 (16 U. S. C. 669-669j), provides for Federal aid to States in wildlife-restoration projects; and

Whereas the State of Wyoming has set up a Federal aid wildlife-restoration project and has acquired wildlife control over certain lands in Sheridan County, which lands are to be administered by the State of Wyoming through its State Game and Fish Commission as the Tongue River Deer Refuge and Winter Pasture; and

Whereas certain contiguous public lands possess wildlife value and could be administered advantageously in connection with the area; and

Whereas the act of March 10, 1934, 48 Stat. 401 (16 U. S. C. 661-666), provides for cooperation with Federal, State, and other agencies in developing a Nation-wide program of wildlife conservation and rehabilitation;

Now, therefore, by virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Sheridan County, Wyoming, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws, but not the mineral leasing laws, and reserved under the jurisdiction of the Department of the Interior for use by the Wyoming State Game and Fish Commission in connection with the Tongue River Deer Refuge and Winter Pasture, under such conditions as may be prescribed by the Secretary of the Interior:

SIXTH PRINCIPAL MERIDIAN

T. 56 N., R. 87 W.,
Sec. 2, S½SW¼ and SW¼SE¼;
Sec. 3, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 4, lots 5, 6, 8, and 9;
Sec. 5, lot 8.

The areas described aggregate 551.05 acres.

This order shall take precedence over, but shall not modify, the withdrawal for classification and other purposes made by Executive Order No. 6910 of November 26, 1934, as amended, so far as it affects the above-described lands.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

FEBRUARY 11, 1949.

[F. R. Doc. 49-1428; Filed, Feb. 24, 1949; 8:51 a. m.]

[Public Land Order 561]

ALASKA

RESERVING CERTAIN PUBLIC LANDS AS AIR-NAVIGATION SITE WITHDRAWAL NO. 246, AND EXCLUDING A PORTION OF SUCH LANDS FROM CHUGACH NATIONAL FOREST AND FROM WITHDRAWAL MADE BY EXECUTIVE ORDER NO. 1919½ OF APRIL 21, 1914

By virtue of the authority vested in the President by section 1 of the act of June 4, 1897, 30 Stat. 34, 36 (16 U. S. C. 473), and section 1 of the act of March 12, 1914, 38 Stat. 305 (48 U. S. C. 303, 304), and pursuant to Executive Order No. 9337 of April 24, 1943, and section 4 of the act of May 24, 1928, c. 728, 45 Stat. 729 (49 U. S. C. 214), it is ordered as follows:

Subject to valid existing rights, the tracts of public land described below by metes and bounds are hereby withdrawn from all forms of appropriation under the public-land laws and reserved for the use of the Civil Aeronautics Administration, Department of Commerce, in the maintenance of air-navigation facilities, the reservation to be known as Air-Navigation Site Withdrawal No. 246:

TRACT NO. 1

Beginning at a point from which a point on the center line of the main track of the Portage Canal Connection, Alaska Railroad, at U. S. Army Survey station 104+00.00, approximately two miles west of the Whittier railroad station, in approximate latitude 60°46' N., longitude 148°44' W., bears West 1,320 feet, S. 18° 42' W. 2,136.27 feet.

From the initial point: N. 17° 30' E. 795 feet; East approximately 770 feet to a point on line of mean high tide of Passage Canal; Southerly with meanders approximately 1,100 feet; N. 73° 00' W. 860 feet to the point of beginning.

The area as described contains approximately 16.18 acres.

TRACT NO. 2

A right of way 20 feet wide for a power and telephone line, the center line of which is described as follows:

Beginning at a point on the south boundary of Tract No. 1 from which the beginning point of said tract bears N. 73° 00' W. 770 feet.

Thence by metes and bounds: South 855 feet; S. 28° 15' W. 90 feet; S. 63° 30' W. 740 feet; S. 78° 00' W. 950 feet; S. 14° 00' W. 600 feet, to the north boundary of the Alaska Railroad right of way.

It is intended that these lands shall be returned to the administration of the Department of the Interior, when they are no longer needed by the Department of Commerce for the purpose for which they are reserved.

Tract No. 1 is hereby excluded from the Chugach National Forest, established by the Proclamation of July 23, 1907, 35 Stat. 2149, and from the withdrawal for townsite purposes made by Executive Order No. 1919½ of April 21, 1914.

This order shall take precedence over, but shall not modify, Executive Order No. 1919½ of April 21, 1914, as modified by Public Land Order No. 396 of August 19, 1947, so far as it affects Tract No. 2.

J. A. KRUG,
Secretary of the Interior.

FEBRUARY 14, 1949.

[F. R. Doc. 49-1430; Filed, Feb. 24, 1949; 8:51 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

PART 120—ANNUAL, SPECIAL OR PERIODICAL REPORTS

CARRIERS BY PIPELINE ANNUAL REPORT FORM P

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 16th day of February A. D. 1949.

The matter of Annual Reports from Carriers by Pipeline being under consideration:

It is ordered, That the order dated December 30, 1947, In the Matter of Annual Reports from Carriers by Pipeline (49 CFR, 120.61) be, and it is hereby modified with respect to annual reports for the year ended December 31, 1948 and subsequent years, as follows:

§ 120.61 *Form prescribed for carriers by pipeline.* All Carriers by Pipeline subject to the provisions of section 20, Part I of the Interstate Commerce Act, are hereby required to file annual reports for the year ended December 31, 1948, and for each succeeding year until further order, in accordance with Annual Report Form P (Carriers by Pipeline),[1] which is hereby approved and made a part of this section. The annual report shall be filed, in duplicate, in the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D. C., on or before March 31 of the year following the one to which it relates. (24 Stat. 386, 34 Stat. 593, 35 Stat. 649, 36 Stat. 556, 41 Stat. 493, 54 Stat. 916, 49 U. S. C. 20 (1)-(8))

NOTE: Budget Bureau No. 60-R 108.5.

By the Commission, Division 1.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 49-1437; Filed, Feb. 24, 1949; 8:52 a. m.]

[1] Filed as part of the original document.

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 947]

HANDLING OF MILK IN FALL RIVER, MASS., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENT TO MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR, Supps. 900.1 et seq.), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed amendment to the order as amended regulating the handling of milk in the Fall River, Massachusetts, marketing area. Interested parties may file written exceptions to the recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 7th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing on the record of which a proposed amendment to the tentative marketing agreement and the order, as amended, was formulated, was called by the Production and Marketing Administration, United States Department of Agriculture. The hearing was held at Fall River, Massachusetts, February 2, 1949, pursuant to a notice published in the FEDERAL REGISTER (14 F. R. 417) on January 29, 1949.

The material issues presented on the record were concerned with the following:

1. Formula factors to be deducted from wholesale prices of cream and nonfat dry milk solids in determining Class II milk prices.

2. Formula factors to be used in determining the value of butterfat in excess of 3.7 pounds in each hundredweight of milk or the deduction in the hundredweight price to be permitted for milk averaging less than 3.7 pounds of butterfat per hundredweight.

3. The adjustment in Class II prices for milk received at plants located various distances from the Fall River market.

4. The rules for classification of producer milk in Class II when a handler is receiving milk from other sources.

5. The addition of definitions of milk and milk drinks and revision of other paragraphs of the order to utilize these terms as defined.

6. Limitation of the producer-handler exemption.

7. Extending the dates for making certain reports and listing the information required on each report.

8. Providing specifically for maintenance of records by handlers.

9. Establishing a separate rate of assessment for milk which is assessed under another Federal order.

10. General.

Findings and conclusions. The following findings and conclusions on material issues are based upon evidence introduced at the hearing and the record thereof.

1. *Formula factors to be used in determining Class II milk prices.* The record of the hearing indicated the need for maintaining Class II milk prices generally in line with market prices of cream sold wholesale and prices received for nonfat dry milk solids. A price for Class II milk in the Fall River market which maintains a reasonable relationship with the price of milk for similar uses in the Boston market is necessary because of the interrelationship of the Boston and Fall River markets.

Evidence at this hearing was concerned with the determination of factors relative to cream prices and nonfat milk solids prices to be used in establishing the Fall River Class II price.

The Boston milk order provides for allowances at country plants in the 201–210 mile zone of 57.5 cents in the months October through February in addition to 9.5 cents allowance for transporting Class II products to the city market. Seasonal increases in allowances in the other months and 6 cents more in August and September, 12 cents more in March, April and July, and 18 cents more in May and June. The Boston prices are applicable to the 201–210 mile zone which is about the center of the country plant area for that milkshed. Milk for the Fall River market is received principally at city plants. Considerable quantities of milk are also received at Fall River from country plants regulated under the Boston order. The Fall River handler's operations are more similar to the operations of country plants in the Boston milkshed since there is not the opportunity for the division of operations between country and city plants which is possible in a market supplied by a large system of country plants.

The Fall River handler does not have to incur the cost of shipping cream since he separates it at his city plant. The allowance for that factor in the Boston Class II price is not applicable to Fall River. On the other hand, the Fall River handler must dispose of the skim milk in about the same way as the country plant operator in the Boston market.

Excess skim milk in the form of manufactured dairy products competes for uses with products made by Boston manufacturing plants and products manufactured in other supply areas.

It is recommended that the Class II price for Fall River city plants be established at a level equal to the Boston country plant price without the cream freight allowance.

Producer associations which also operate as handlers of surplus milk for the Fall River market proposed that Class II prices during the months of April, May and June be reduced further by 23 cents. During these months of flush milk production the producer associations pointed out that they provided a service to handlers by taking small lots of Class II milk from them and transporting it outside the area for surplus uses. Purchasers of this milk last year were principally ice cream manufacturers and cheesemakers. Buyers of milk for these uses last year would pay, for milk delivered to their manufacturing plants, no more than the Fall River city Class II price. The producer associations testified that the cost of the pick-up and delivery service was about 23 cents per hundredweight.

The allowances recommended herein are about 16 cents higher than the total allowance factors deducted from cream and nonfat solids prices last year. There is nothing in the record to indicate that purchasers of Class II milk will pay less for Class II milk relative to cream and nonfat solids markets than they would pay last year. Therefore the producer associations should be able to credit the 16 cents against their cost of handling the milk.

Some Class II milk is utilized in the Fall River market and no evidence was offered to indicate that Class II milk which does not have to be moved should be valued at a lower price. It is questionable, therefore, whether the full amount of the additional cost of handling certain Class II milk should be recognized in a lower price for all Class II milk. In view of the fragmentary evidence of the need for the special allowance, that factor should not be incorporated in the order at this time.

Although the representative of the producer associations indicated a preference for the computation of allowances in two factors, one applicable to the value of butterfat and one applicable to the value of skim milk, the record does not contain a basis for establishing this division of the allowances.

2. *Formula factors to be used in determining butterfat differentials.* It was proposed at the hearing that the factors used in determining the butterfat differential be changed so that the resulting differential would conform more closely to the butterfat differential used in calculating prices under the Boston milk order. The butterfat differential used in determining prices for milk testing above or below 3.7 percent butterfat under the Boston order is computed by deducting from the price of one-tenth pound of butterfat in 40 percent cream, the cost of shipping butterfat in the form of cream the mileage distance of 201–210 miles. This distance represents about the midpoint of the Boston milk supply area. The butterfat differential under the Boston order is applicable, however, in each zone at the same rate.

In the Fall River market, milk is received principally at city plants and therefore a deduction for the cost of ship-

ping cream is not applicable to the butterfat value. The record does not support any change in the computation of the butterfat differential.

3. *Adjustment in Class II prices for milk received at plants located various distances from Fall River.* Although the Fall River market is not usually supplied from country plants regulated by that order, there have been times when milk has been received from country plants and there is a need for a method of computing prices at such points. The country milk plant area in New England from which Fall River might draw milk is within the same area from which the Boston market regularly draws a large part of its milk supply. In the computation of price differentials for Class II milk received at plants various distances from the Fall River market, it is necessary to consider the prices which would be applicable to such plants if they were purchasing milk under the provisions of the Boston order. The Fall River market is approximately 50 miles further from the center of the country plant milk supply area than is the Boston market. The differentials for the Fall River market should be established, therefore, so that the Class II price for plants in the 251–300 mile zone from Fall River corresponds to the price at plants in the 201–250 mileage distance from Boston. In view of the minor nature of the country plant supply for Fall River, the price differentials based on 50-mile brackets are more suitable than the 10-mile graduations used in the Boston order.

4. *Classification of producer milk by handlers receiving milk from other sources.* The provisions of the Fall River order limit the quantity of producer milk which may be classified in Class II to 5 percent if a handler is receiving milk from other sources which could be allocated to Class II. A handler proposed that this rule of classification be removed. It was maintained that the competition of handlers for supplies of producer milk would prevent any handler from utilizing an unreasonable amount of producer milk in Class II.

This provision is designed to direct the maximum quantity of producer milk into Class I uses in view of the inadequate supply of producer milk available for that use. The data in the hearing record relative to milk production and sales in the market indicate that producer milk is still less than Class I requirements. The handler indicated that he had been able to adjust his operations so that the provision has caused him no difficulty in recent months. The provision should be maintained until there are more definite signs that it is not accomplishing its purpose.

5. *Definition of "milk" and "milk drinks."* The terms "milk" and "milk drinks" should be defined in the order and these terms should be used in the order according to their definitions. The record indicates that heretofore milk has meant in some places in the order only the commodity usually known as milk and at other times it has meant all of the products of milk.

6. *Limitation of the producer-handler exemption.* The term "producer-handler" has been used in the Fall River order to designate any handler regardless of size who managed a herd of his own as well as a milk distribution business, but did not receive milk from other farmers. Certain of the producer-handlers operating in the Fall River market, although they purchased no milk from producers do have substantial sales and purchase large quantities of milk from other handlers. In order to effectively administer this order, it is necessary that the market administrator receive regular reports of receipts and disposition of milk from all handlers who have sales in excess of 1,000 pounds daily other than bulk sales to other handlers. These reports must be verified, and the cost of that verification should be shared by the handlers who make such reports. The exemption of these larger producer-handlers has resulted in the assessment of regular handlers for these services which must be performed in connection with the producer-handlers.

One handler who would be subjected by this proposed amendment to the full regulation of the order objected to the proposal at the hearing and in a brief filed following the hearing. This handler maintained that there is no need to regulate a producer-handler regardless of his size. The record indicates that the larger producer-handlers who would be affected by this proposal receive substantial quantities of milk from other handlers. The enforcement of this regulation equally upon all handlers requires that the market administrator receive regular reports from these handlers so that he can verify the sources of their supplies.

7. *Dates for making reports.* The dates for filing reports and making price announcements should be extended to provide more time for preparation of these reports and announcements. The adoption generally of the 5-day work week has made it difficult to comply with the requirements for completing the various reports required. The extension of these dates for filing reports will not affect the time for paying producers.

8. *Maintenance of records.* Although the requirement that records of handlers be available for verification by the market administrator of reports filed with him indicates the necessity for maintaining such records, it is desirable that the requirement that records be maintained be stated specifically in the order.

9. *Basis for assessment.* Large quantities of milk are received in Fall River from plants which are regulated by another Federal order. To the extent that this milk has been assessed under another Federal order, the Fall River assessment is reduced. The cost of administering the Fall River order with respect to this milk which has been received at plants regulated by another order is reduced to some extent. However, the saving of expense by the Fall River market administrator on this particular milk is not directly related to the amount of assessment under the other order. For example, milk received in December 1948 from plants regulated by the Boston order was assessed in Fall River at the rate of 2½ cents per hundredweight. Milk received in January 1949 from plants regulated by the Boston order was assessed under the Fall River order only 2 cents per hundredweight. There was no reduction from December to January in the expense which the Fall River administrator had to incur on milk received from Boston order plants. The Fall River market administrator has determined that the cost of administering the Fall River order with respect to milk received from another Federal order is 3 cents per hundredweight at the present time. The maximum allowance rate should, therefore, be established at 3 cents per hundredweight.

10. *General.* (a) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, regulates the handling of milk in the same manner and is applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement upon which the hearings have been held; and

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) of the act are not reasonable in view of the price of feed, available supplies of feed, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Rulings on proposed findings and conclusions. The proposed findings and conclusions contained in the briefs filed following the hearing were carefully considered, along with the evidence of the record, in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such proposed findings and conclusions are inconsistent with the findings and conclusions contained herein, the requests to make such findings and to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions hereinbefore set forth.

Recommended amendment to the order. The following amendment to the order, as amended, is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The amendments to a proposed marketing agreement are not repeated because they would be identical to the following:

1. In § 947.1, add:

(q) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(r) "Milk drinks" means flavored milk, skim milk, flavored skim milk, cultured skim milk, and buttermilk, either individually or collectively.

2. Delete § 947.1 (j) and substitute:

(j) "Producer-handler" means a producer who is also a handler who receives no milk from producers and who during the delivery period disposes of no more than 1,000 pounds on a daily average of milk and milk drinks other than in bulk to another handler or producer-handler: *Provided,* That such handler shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care, and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer and the processing, packaging, and distribution of the milk are and continue to be the personal enterprise of and at the personal risk of such producer in his capacity as a handler.

3. In § 947.1, delete paragraph (m) and substitute:

(m) "Other source milk" means all milk and milk products received by a handler which is not producer milk, milk delivered by dairy farmers designated for other markets, or milk and milk drinks from a Federal order plant.

4. Delete § 947.3 (a) (1), (2), (3), and (4) and substitute therefor:

(a) *Submission of reports.* Each handler shall report to the market administrator in the form and detail prescribed by the market administrator, as follows:

(1) On or before the 8th day after the end of each delivery period, the receipts of milk and milk products at each plant from producers, from other handlers, from such handler's own production, from any other sources during the delivery period, and inventories on hand at the beginning and end of each such delivery period;

(2) On or before the 8th day after the end of each delivery period, the respective quantities of milk and milk products which were sold, distributed, or disposed of, including sales or deliveries to other handlers during the delivery period, for the several purposes and classifications as set forth in § 947.5;

(3) On or before the 20th day of each delivery period each handler shall report to the market administrator the receipts of milk from producers received during the first 15 days of such delivery period showing for each producer:

(i) The daily and total receipts of milk;

(ii) The average butterfat test thereof; and

(iii) The current post office address and farm location of producers for whom information has not been previously reported.

(4) On or before the 8th day after the end of each delivery period each handler shall report to the market administrator his receipts of milk from producers received during the period from the 16th through the last day of the delivery period showing for each producer:

(i) The daily and total receipts of milk;

(ii) The average butterfat test thereof; and

(iii) The current post office address and farm location of producers for whom information has not been previously reported.

(5) On or before the 25th day after the end of each delivery period each handler shall submit to the market administrator his producer records for such delivery period which shall show for each producer:

(i) The total pounds of milk delivered and the average butterfat test thereof; and

(ii) The net amount of such handler's payments to each producer and each cooperative association made pursuant to § 947.8 together with the prices, deductions and charges involved.

5. In § 947.3 (a) renumber subparagraphs (5), (6), and (7) as (6), (7), and (8); in subparagraph (7) as renumbered change the reference to subparagraph "(5)" to read subparagraph "(6)", and in subparagraph (8) as renumbered delete the term "7th" and substitute "8th."

6. In § 947.7 (c) delete the term "11th" and substitute "12th."

7. In § 947.9 (a) delete the term "15th" and substitute the term "17th."

8. In § 947.9 (b) after the words "and pay an equivalent amount" insert the words "on or before the 20th day after the end of the delivery period."

9. In § 947.3, add:

(d) *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements and disposition of milk and milk products during the delivery period and the quantities of milk and milk products on hand at the end of the delivery period.

10. Delete § 947.5 (a) and (b) and substitute:

(a) *Responsibility of handlers.* In establishing the classification of milk and milk products received by a handler the burden rests upon the handler who received milk from producers to account for all milk and milk products received at each plant at which milk is received from producers, and to prove that such milk and milk products should not be classified as Class I. The burden rests upon the handler who distributes milk and milk drinks in the marketing area to establish the source of all milk and milk products received.

(b) *Classes of utilization.* The classes of utilization of milk and milk products shall be as follows subject to paragraphs (c) and (d) of this section:

(1) Class I milk shall be all milk and milk products the utilization of which is not established as Class II milk.

(2) Class II milk shall be all milk and milk products the utilization of which is accounted for as:

(i) Sold, distributed, or disposed of other than as milk which contains one-half of 1 percent or more but less than 16 percent of butterfat, and other than as chocolate or flavored whole or skim milk, buttermilk, or cultured skim milk, for human consumption; and

(ii) Actual plant shrinkage not in excess of 2 percent of milk and milk drinks received from all sources including the handler's own production but not including receipts from other handlers who receive milk from producers or milk and milk products received completely processed and packaged from a Federal order plant.

11. Revise the title of § 947.5 (c) to read as follows:

(c) *"Transfers of milk and milk drinks from a plant at which milk is received from producers,"*

and delete subparagraph (3) under that title and substitute:

(3) Transfers to a plant, other than a handler's plant or a Federal order plant, shall be Class I not to exceed the total Class I at such plant during the delivery period.

12. Delete § 947.5 (d) through subparagraph (6) and substitute:

(d) *Clasification of milk and milk products received at plants at which milk is received from producers.* For each delivery period each handler shall report the classification of milk and milk products which were received at plants at which milk is received from producers by making computations in the order indicated as follows:

(1) Determine the pounds of milk and milk products received at all plants of the handler at which milk is received from producers:

(i) From producers, including own production,

(ii) From dairy farmers designated for other markets,

(iii) In the form of milk products received completely processed and packaged from a Federal order plant,

(iv) In the form of bulk milk and milk drinks received from another Federal order plant,

(v) From other handlers who receive milk from producers, and

(vi) From other sources, and the total.

(2) Determine the total pounds of milk and milk products utilized in Class II products including allowable plant shrinkage as provided in paragraph (b) (2) (ii) of this section.

(3) Prorate allowable plant shrinkage classified as Class II to receipts from producers, from dairy farmers designated for other markets, bulk receipts of milk and milk drinks from other Federal order plants, and milk and milk drinks from other source milk, and deduct such plant shrinkage from total Class II computed pursuant to subparagraph (2) of this paragraph.

(4) Classify remaining other source milk and milk products as Class II in an amount no greater than the amount of the Class II remaining.

(5) From the remaining pounds in each class deduct:

(i) The quantity of milk and milk products received from other handlers who receive milk from producers which is classified according to paragraph (c) (2) of this section, and

(ii) Milk and milk products received completely processed and packaged from a Federal order plant classified according to the actual use established.

(6) Prorate remaining Class II to receipts of milk and milk drinks from producers, from dairy farmers designated for other markets and bulk receipts from Federal order plants: *Provided,* That receipts from producers classified as Class II inclusive of plant shrinkage shall not exceed 5 percent of the total quantity received from producers.

13. Delete § 947.6 (b) and substitute:

(b) *Class II prices.* (1) Each handler shall pay producers or cooperative associations for their milk in the manner set forth in § 947.8 and subject to subparagraph (2) of this paragraph not less than the price per hundredweight, for milk containing 3.7 percent butterfat, calculated for each delivery period as follows:

(i) Divide by 33.48 the weighted average price per 40-quart can of 40 percent bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered and multiply the result by 3.7.

(ii) Using the midpoint in any range as one price, compute the average of the prices per pound of roller process nonfat dry milk solids suitable for human consumption, in barrels, in carlots, as published during the month by the United States Department of Agriculture for New York City, subtract one-half cent, and multiply the remainder by 7.5.

(iii) Add the results obtained in subdivisions (i) and (ii) of this subparagraph, and from the sum subtract the amount shown below for the applicable month.

Month	*Amount*
January and February	57.5
March and April	69.5
May and June	75.5
July	69.5
August and September	63.5
October, November and December	57.5

(2) For milk delivered to a handler from producers' farms at a plant for which the railroad freight mileage distance from the shipping point for such plant to Fall River in 101 miles or more, the price shall be the amount computed pursuant to subparagraph (1) of this paragraph less the applicable amount set forth in Column B of the following table:

DIFFERENTIALS FOR THE DETERMINATION OF CLASS II ZONE PRICES

A *Zone (railroad miles from Fall River)*	*B* *Differential (cents per hundredweight)*
0–100	No differential
101–150	2.5
151–200	3.5
201–250	5.0
251–300	6.5
301–350	7.5
351–400	8.5
401 and over	9.0

14. Delete § 947.10 and substitute:

§ 947.10 *Expense of administration—*(a) *Payments by handlers.* As his prorata share of the expense of administration hereof, each handler not a producer-handler shall, on or before the 17th day after the end of each delivery period, pay to the market administrator 5 cents per hundredweight or such lesser amount as the Secretary may from time to time prescribe with respect to all milk and milk drinks received during such delivery period at a plant or plants described in subparagraphs (1) and (2) of this paragraph except milk and milk drinks received from other plants of the type described in subparagraphs (1) and (2) of this paragraph: *Provided,* That such handler, which is a cooperative association, shall pay such pro rata share of expenses of administration on such milk which it causes to be delivered by member producers to a handler's plant for the marketing area and for which milk such cooperative association collects payment. *And provided further,* That the rate of payment shall be 3 cents per hundredweight or such lesser amount as the Secretary may from time to time prescribe with respect to milk and milk drinks assessed for the cost of administration of another Federal order:

(1) A plant at which milk is received from producers.

(2) A plant from which Class I milk is disposed of in the marketing area to persons other than handlers.

Issued at Washington, D. C., this 21st day of February 1949.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-1449; Filed, Feb. 24, 1949; 8:56 a. m.]

[7 CFR, Part 993]

[Docket No. AO 201]

HANDLING OF DRIED PRUNES IN CALIFORNIA

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps., 900.1 et seq.; 13 F. R. 8585), notice is hereby given of a public hearing to be held with respect to a proposed marketing agreement and a proposed marketing order regulating the handling of dried prunes produced in the State of California. Such hearing will be held in the San Francisco Room, First Floor, Native Sons Building, 414 Mason Street, San Francisco, California, beginning at 9:30 a. m., P. s. t., March 14, 1949, and in Room 63, Federal Office Building, Civic Center, Fulton and Leavenworth Streets, San Francisco, California, beginning at 9:30 a. m., P. s. t., March 16, 1949. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

This public hearing will be held for the purpose of receiving evidence with respect to the economic and marketing conditions relating to the provisions of the proposed marketing agreement and order which is hereinafter set forth and any appropriate modifications thereof. The Prune Program Committee under the Marketing Program for Prunes, as amended, established under the provisions of the Agricultural Producers Marketing Act of the State of California, has proposed the following marketing agreement and order regulating the handling of dried prunes produced in the State of California and has requested a hearing thereon (the provisions identified with an asterisk (*) apply only to the marketing agreement and not to the proposed marketing order):

§ 993.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary under the act.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(c) "Person" means an individual, partnership, corporation, association, or any other business unit.

(d) "Prunes" means and includes all sun-dried or artificially dehydrated plums, of any type or variety, grown in the State of California, except sulphur-bleached prunes which are produced from yellow varieties of plums and are commonly known as silver prunes, except as used in § 993.5 (d).

(e) "Natural condition prunes" means prunes which have not been processed.

(f) "Processed prunes" means prunes which have been cleaned, or treated with water or steam, or placed in any container suitable or usable for marketing.

(g) "Standard prunes" means natural condition prunes meeting grade and size standards prescribed pursuant to § 993.4.

(h) "Standard processed prunes" means processed prunes meeting grade and size standards prescribed pursuant to § 993.4.

(i) "Substandard prunes" means any lot of processed or natural condition prunes which fail to meet the applicable grade and size standards prescribed pursuant to § 993.4.

(j) "Handler" means any person who handles prunes.

(k) "Handle" means to receive, process, pack, sell, consign, transport, or ship or in any other way to place prunes in the current of commerce (except as a carrier of prunes owned by another person). This term shall not include the receiving of prunes within the State of California by a producer from another producer, and shall not include buying, selling, receiving or otherwise dealing with prunes which have already been handled within the meaning of this definition.

(l) "Cooperative handler" means any handler which is a cooperative market-

ing association of producers organized under the Agricultural Code of California and engaged in the handling of prunes.

(m) "Producer" means any person engaged in growing plums for drying or dehydrating or in the business of producing or causing to be produced, prunes for marketing, and the term shall include dehydrators and dry-yard operators.

(n) "Ton" means a short ton of 2,000 pounds.

(o) "Grade" means the classification of prunes for quality and condition according to the grading specifications established pursuant to the provisions hereof.

(p) "Size" means the number of prunes contained in a pound or the classification of prunes into their various count groups in accordance with the usual practice of the industry.

(q) "Crop year" means the 12 month period beginning August 1 of any year and ending July 31 of the following year, except that the first crop year hereunder shall begin on the effective date hereof and terminate on July 31 of the following year.

(r) "Domestic" means the continental United States, Alaska, Canal Zone, Hawaii, Puerto Rico, Virgin Islands, and Canada.

(s) "Proper storage" means storage of such character as will maintain prunes in the same condition as when received except for normal and natural deterioration or shrinkage.

§ 993.2 *Prune Administrative Committee*—(a) *Establishment.* A Prune Administrative Committee (hereinafter referred to as the committee), consisting of 21 members, with an alternate member for each such member, is hereby established to administer the terms and provisions hereof, of whom, with their respective alternates, 14 shall represent producers and seven shall represent handlers.

(b) *Designation of initial members and alternates.* The initial producer members of the committee, and their respective alternates, shall be the same as the members, and their respective alternates, of the Prune Program Committee under the Marketing Program for Prunes, as amended, established under the provisions of the Agricultural Producers Marketing Act of the State of California, who are serving in such capacities at the effective time hereof. The initial handler members of the committee, and their respective alternates, shall be the members, and their respective alternates, of the Dried Prune Advisory Board under the Marketing Order for California Dried Prunes, as amended, established under the provisions of the California Marketing Act of 1937, who are serving in such capacities at the effective time hereof. Such initial members and alternate members shall serve until May 31, 1950, and any further time which may be required for the selection and qualification of their respective successors. In the event that a vacancy should occur during the term of office of the initial members and their respective alternates, such vacancy shall be filled by appointment by the Secretary, but from the same category (producer or handler) within which the vacancy occurs.

(c) *Nomination and selection of successor members and alternates*—(1) *General.* The term of office of successors to initial members, and their respective alternates, shall be two years, ending on May 31, and any further time which may be required for the selection and qualification of their respective successors. Selection of successor members of the committee, and their respective alternates, shall be made by the Secretary, for the producer and handler groups, from the nominations submitted for that purpose by the respective groups, and/or from among other qualified persons, in the discretion of the Secretary, but such selections shall be made by the Secretary from the classes within each group and in the proportions set forth in subparagraphs (2) and (3) of this paragraph. Each producer member and alternate member of the committee shall be a person who grows plums for the production of prunes in the district which he represents, and, if such person also handled prunes during the crop year immediately preceding that for which he is selected, he must have grown for production at least 51 percent of the prunes so handled by him during such preceding crop year. Each handler member and alternate member of the committee shall be either a handler of prunes or an employee or agent of a handler of prunes actually engaged in the handling of prunes while he is such member or alternate member.

(2) *Producer nominees*—(i) *Independent producers.* One nominee for membership on the committee shall be nominated by majority vote in elections in which only producers who are not members of a cooperative marketing association shall participate in each of the seven districts in the State of California which are hereinafter described. The committee shall cause such elections to be held in each district in each election year not later than March 31. At such election, each such producer shall be entitled to cast only one vote for each nominee and for each alternate nominee and each such producer shall be permitted to vote only in a district in which he is engaged in the production of prunes. No producer shall vote in more than one district. In case a producer produces prunes in more than one district, he shall elect by written notification to the committee in which of such districts he will cast his vote for such nominees. The seven districts which are referred to herein are described as follows:

District No. 1. The counties of Siskiyou, Modoc, Shasta, Trinity, Lassen, Plumas, Sierra, Tehama, Glenn, Butte, Colusa, Sutter, Yuba, Nevada and Placer.

District No. 2. The counties of Napa, Yolo, Solano.

District No. 3. The counties of Mendocino, Lake, Sonoma, Marin, Del Norte and Humboldt.

District No. 4. The counties of San Francisco, San Mateo, and Santa Cruz, and all that portion of the territory in Santa Clara County north and west of a line described as follows: beginning at the intersection of First Street in Alviso and San Francisco Bay, thence south via First Street to San Carlos Street, west to Meridian Road, south on the Meridian Road to Dry Creek Road, west on Dry Creek Road to San Jose-Los Gatos Highway, southwesterly on the highway to Union Avenue (also known as Ware Avenue) and south on Union Avenue (or Ware Avenue) along a line continuing to the Santa Cruz County line.

District No. 5. All of Alameda County, and that part of Santa Clara County east and south of District No. 4, extending in a southerly direction to a straight line extending from along the main portion of the Cochran Road, northeasterly to the Stanislaus County line and southwesterly to the Santa Cruz County line.

District No. 6. The counties of San Benito, Monterey and San Luis Obispo, and all of that portion of Santa Clara County south of District No. 5.

District No. 7. All the counties in the State of California not included in District No. 1 to No. 6, inclusive.

(ii) *Cooperative producers.* Prior to March 1 of each election year, the committee shall report to the Secretary the total tonnage handled by all handlers and the total tonnage handled by cooperative marketing associations during the preceding crop year. Prior to March 15 of each election year, the Secretary shall determine and announce the number of producer nominees and their alternates which shall be nominated by cooperative marketing associations handling prunes on behalf of their members. Such number of nominees shall bear, as far as practicable, the same percentage compared to the total of 14 producer members as the prune tonnage handled by cooperative marketing associations bears to the total prune tonnage handled during the preceding crop year. Prior to March 31 of each election year, the cooperative marketing associations handling prunes shall nominate to the Secretary on behalf of their members, such number of producer nominees and their respective alternates.

(iii) *Producers-at-large.* The number of nominees and their respective alternates then required to make up the total of 14 producer nominees and their alternates shall be nominated to the Secretary by the seven independent producer nominees nominated for the particular election year, pursuant to the provisions of this section. Such nominations shall be made prior to April 15 and shall be by majority vote.

(3) *Handler nominees.* Prior to March 15 of each election year, the Secretary shall determine and announce the number of handler nominees and their alternates which shall be nominated by cooperative marketing associations handling prunes, on the same basis as his determination of the number of cooperative producer nominees, as set forth in subparagraph (2) (ii) of this paragraph. Prior to March 31 of each election year, the cooperative marketing associations handling prunes shall nominate to the Secretary such number of handler nominees and their respective alternates. Prior to March 31, at a meeting called for that purpose by the committee, the number of handler nominees required to make up the total of seven and their respective alternates shall be nominated to the Secretary by the handlers who are not cooperative marketing associations, on

the basis of a majority vote of all such handlers present and participating in the voting, and on the further basis of one vote for each handler.

(d) *Alternates.* An alternate for a member of the committee shall act in the place and stead of such member (1) during his absence, and (2) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

(e) *Failure to nominate.* In the event nominations for any positions on the committee are not received within the prescribed periods, the Secretary may select such members or their alternates, without regard to nominations, but each such selection shall be on the bases prescribed herein.

(f) *Acceptance.* Each person selected as a member or alternate member of the committee shall, prior to serving on the committee, qualify by filing with the Secretary a written acceptance within 15 days after receiving notice of his selection.

(g) *Vacancies.* Except in the case of initial members and alternates, in the event of any vacancy occasioned by the failure of any person selected as a member or alternate member of the committee to qualify, or, by the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated and selected in the manner provided in this section, insofar as applicable.

(h) *Voting procedure.* Except as specifically otherwise provided in this paragraph, all decisions of the committee shall be by majority vote of the members present and voting and a quorum must be present. A quorum shall consist of at least 11 members of which at least eight must be producers. Except in case of emergency, a minimum of five days advance notice must be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but when any proposition is submitted for voting by such method, one dissenting vote shall prevent its adoption until submitted to a meeting of the committee. Any recommendation submitted to the Secretary by the committee, pursuant to the requirements of §§ 993.3, 993.4 or 993.5, shall be on the basis of an affirmative vote by at least 16 members.

(i) *Compensation and expenses.* The members of the committee, and their alternates when acting as members, shall receive $10.00 per day for each day devoted to performing their duties hereunder, plus their reasonable necessary expenses.

(j) *Powers.* The committee shall have the following powers:

(1) To administer the terms and provisions hereof;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(k) *Duties.* The committee shall have, among others, the following duties:

(1) To keep minutes, books, and other records which will clearly reflect all of its acts and transactions, such minutes, books, and other records to be subject to examination by the Secretary at any time;

(2) To make, subject to the approval of the Secretary, scientific and other studies, and assemble data on the producing, handling, shipping and marketing conditions relative to prunes which are necessary in connection with the performance of its official duties;

(3) To select, from among its members, a chairman and other appropriate officers, and to adopt such rules and regulations for the conduct of the business of the committee as it may deem advisable;

(4) To employ such other persons as it may deem necessary, and to determine the salaries and define the duties of such persons;

(5) To submit to the Secretary not later than June 20, a budget of its anticipated expenditures and the recommended rate of assessment for the ensuing crop year and the supporting data: *Provided*, That, with respect to the first crop year hereunder, such budget, recommended rate of assessment, and supporting data shall be submitted to the Secretary not later than June 20, 1949, or 15 calendar days after the effective date hereof, whichever is later.

(6) To submit to the Secretary such available information with respect to prunes as the committee may deem appropriate, or as the Secretary may request;

(7) To prepare and submit to the Secretary monthly statements of the financial operations of the committee, exclusive of surplus tonnage operations, and to make such statements, together with the minutes of the meetings of said committee, available for inspection by producers and handlers at the offices of the committee;

(8) To prepare and submit to the Secretary annually, as soon as practicable after the end of each crop year and at such other times as the committee may deem appropriate or the Secretary may request, a statement of the financial operations of the committee with respect to the surplus tonnage for such crop year and to make such statement available for inspection by producers and handlers at the offices of the committee;

(9) To cause the books of the committee to be audited by a certified public accountant at least once each crop year, and at such other times as the committee may deem necessary or as the Secretary may request. Such report shall show, among other things, the receipt and expenditure of funds. At least two copies of such audit report shall be submitted to the Secretary; a copy of each such report shall be available, at the offices of the committee, for inspection by producers and handlers;

(10) To give the Secretary the same notice of meetings of the committee as is given to the members of the committee;

(11) To investigate compliance with the provisions hereof and with any rules and regulations established pursuant to such provisions; and

(12) To establish, with the approval of the Secretary, such rules and procedures relative to administration as may be consistent within the provisions herein contained and as may be necessary to accomplish the purposes of the act and the efficient administration hereof.

§ 993.3 *Marketing policy*—(a) *Basis.* Prior to the beginning of each crop year, the committee shall prepare and submit to the Secretary a report setting forth its marketing policy for the regulation of prunes in such crop year, pursuant to §§ 993.4 and/or 993.5. Such report shall include the data and information used by the committee in the formulation of such marketing policy. In developing such marketing policy, the committee shall give due consideration to the following factors:

(1) The estimated tonnage of prunes from preceding crop years held by handlers, either sold or unsold, or both.

(2) The estimated tonnage of prunes from preceding crop years held by producers.

(3) The estimated production of prunes in such crop year.

(4) An appraisal of the general quality and size of prunes of the crop to be produced in such crop year.

(5) The estimated tonnage of prunes marketed in recent crop years segregated as to foreign and domestic disposition.

(6) The current prices being received for prunes by producers and handlers.

(7) The trend and level of consumer income.

(8) The estimated probable market requirements for prunes in such crop year segregated as to domestic and foreign.

(9) Such other factors as may have a bearing on the marketing of prunes.

(b) *Policy meeting.* The committee shall hold a meeting for the purpose of formulating and adopting the marketing policy for any crop year not later than June 15 preceding the beginning of such crop year: *Provided*, That, with respect to the first crop year hereunder, the committee shall hold a meeting for such purpose not later than June 15, 1949, or 10 calendar days after the effective date hereof, whichever is later.

(c) *Time of submission.* The marketing policy report for any crop year shall be submitted to the Secretary not later than June 20 preceding the beginning of such crop year: *Provided*, That, with respect to the first crop year hereunder, the marketing policy report shall be submitted to the Secretary not later than June 20, 1949, or 15 calendar days after the effective date hereof, whichever is later.

(d) *Modifications or changes.* In the event the committee subsequently determines that such marketing policy, other than with respect to the surplus and salable percentages, should be modified or changed by reason of change in eco-

nomic conditions, it shall make such modification or change in the manner provided for above for the original formulation of a marketing policy, insofar as applicable, and shall submit a report of such modified or changed marketing policy to the Secretary, along with the data which it considered in connection with the making of such modification or change.

(e) *Notice.* The committee shall give reasonable notice to producers and handlers of the contents of each marketing policy report submitted to the Secretary and each report modifying or changing a marketing policy. Copies of all such reports shall be maintained in the offices of the committee where they shall be available for examination by producers and handlers.

§ 993.4 *Grade and size regulations*—(a) *Receiving of natural condition prunes by handlers*—(1) *General.* In order to effectuate the declared policy of the act, no handler shall receive prunes from producers except in accordance with the terms and conditions with respect to grades and/or sizes set forth in this paragraph.

(2) *Initial regulation.* Effective as of the effective time hereof and continuing until such regulations are superseded by other regulations prescribed by the Secretary, no handler shall receive prunes from producers, other than as substandard prunes, unless they meet the minimum standards for natural condition prunes as set forth in Exhibit A, which is attached hereto and made a part hereof.

(3) *Superseding regulation.* In case the committee should recommend to the Secretary that the initial minimum standards as to grade, as provided for in subparagraph (2) of this paragraph, should be superseded by other minimum standards as to grades and/or sizes it shall submit its recommendation to the Secretary, together with the data and information upon which it acted in making such recommendation, including information as to factors affecting the supply of, and demand for, prunes by grades and/or sizes, and such other information as the Secretary may request. The Secretary shall issue such superseding regulation if he finds, upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Any such superseding regulation, insofar as it applies to grades, shall not be below the applicable minimum standards for grades of natural condition prunes as set forth in the aforementioned Exhibit A, and any such minimum standards for grades shall provide a maximum tolerance for total defects, and may provide a maximum tolerance for single defects or classes of defects. Any superseding regulations issued by the Secretary shall subsequently be modified, suspended, or terminated, in case he finds that the pertinent facts and circumstances so warrant, and the committee, in submitting any recommendation therefor to the Secretary, shall, in each instance, submit to him the information and data on the basis of which such recommendation is made. The committee shall give prompt notice to handlers and producers of each recommendation submitted by it to the Secretary and of each superseding regulation issued by the Secretary.

(4) *Inspection.* Each handler shall, at his own expense, cause an inspection to be made of prunes tendered to him by a producer. Prior to accepting any such tender of prunes as prunes meeting the applicable minimum standards for grades and/or sizes, such handlers shall obtain a certificate that the prunes meet the aforementioned requirements for standard prunes as established pursuant to the provisions of subparagraphs (2) or (3) of this paragraph, and said handler shall submit or cause such certificate to be submitted, together with such other instruments and records as the committee may require, to the committee. Such certificate shall be issued by inspectors of such inspection agency as may be designated by the committee with the approval of the Secretary. Any prunes so certified as meeting the applicable requirements shall thereafter be known and referred to as standard prunes.

(5) *Substandard natural condition prunes*—(i) *Producer's option as to sorting.* Any natural condition prunes tendered to a handler by a producer which fail to meet the applicable minimum standards as to grades and/or sizes, may, at the producer's option, be returned to the producer for sorting, or, by agreement between such producer and handler, may be sorted by the handler for the account of the producer, or turned over to the handler unsorted to be held by him for the account of the committee. Any such natural condition prunes taken in by or turned over to a handler shall thereafter be known and referred to as substandard prunes, and, except where otherwise specifically provided, such prunes shall be treated the same as and subject to the same provisions respecting surplus prunes, as contained in § 993.5. Any such substandard prunes, except those referred to in § 993.4 (b) (6), shall be held by a handler separate and apart from any standard prunes held by him.

(ii) *Sorting by handler.* In the event the producer should elect to arrange with a handler for the sorting of any substandard prunes tendered by him to such handler, the inspection agency designated to make inspections of prunes shall issue, at the handler's expense, a certificate of appraisal on such prunes so tendered, which shall show the percent of off-grade prunes therein which are in excess of the tolerances established for standard prunes. The equivalent of the weight of such off-grade prunes represented by the application of such percentage to the total tonnage so appraised and certified, shall be treated as substandard prunes in the manner provided for in subdivision (i) of this subparagraph.

(b) *Regulation of prunes subsequent to their receipt by handlers*—(1) *General.* In order to effectuate the declared policy of the act, no handler shall ship or otherwise make final disposition of standard prunes or standard processed prunes, except in accordance with the terms and conditions with respect to grades and/or sizes set forth in this paragraph.

(2) *Initial regulation.* Effective as of the effective time hereof, and continuing until such regulations are superseded by other regulations prescribed by the Secretary, no handler shall ship, or otherwise make final disposition of standard prunes, or standard processed prunes, unless they meet the applicable minimum standards set forth in the aforesaid Exhibit A.

(3) *Superseding regulation.* In case the committee should recommend to the Secretary that the initial minimum standards as to grade, as provided for in subparagraph (2) of this paragraph, should be superseded by other minimum standards as to grades and/or sizes it shall submit its recommendation to the Secretary together with the data and information upon which it acted in making such recommendation, including information as to factors affecting the supply of, and demand for, prunes by grades and/or sizes, and such other information as the Secretary may request. The Secretary shall issue such superseding regulation if he finds, upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Any such superseding regulation, insofar as it applies to grades, shall not be below the applicable minimum standards for grades of standard prunes or standard processed prunes, as set forth in the aforementioned Exhibit A, and any such minimum standards for grades shall provide a maximum tolerance for total defects, and may provide a maximum tolerance for single defects or classes of defects. Any superseding regulation issued by the Secretary may subsequently be modified, suspended, or terminated in case he finds that the pertinent facts and circumstances so warrant; and the committee, in submitting any recommendation therefor to the Secretary shall, in each instance, submit to him the information and data on the basis of which such recommendation is made: *Provided,* That, at all times, the regulation shall be comparable so far as practicable, to the then current regulation in effect with respect to the receiving of natural condition prunes by handlers from producers. The committee shall give prompt notice to handlers and producers of each recommendation submitted to it by the Secretary and of each superseding regulation issued by the Secretary.

(4) *Inspection.* Each handler shall, at his own expense, before shipping or otherwise making final disposition of standard prunes or standard processed prunes, cause an inspection to be made of such prunes to determine whether they meet the then applicable regulation with respect to grades and/or sizes, and he shall not ship or make other final disposition of such prunes for consumption as prunes, unless they meet such minimum standards. Such handler shall obtain a certificate that the prunes meet the aforementioned minimum standards and such handler shall submit or cause

the certificate to be submitted, together with such other instruments and records as the committee may require, to the committee. Such certificate shall be issued by inspectors of such inspection agency as may be designated by the committee with the approval of the Secretary.

(5) *Exceptions to restrictions.* Notwithstanding the restrictions contained in subparagraphs (2) or (3) of this paragraph, any handler may transfer prunes from one plant owned by him to another plant owned by him without having any inspection made as provided for in subparagraph (4) of this paragraph. Also, any handler may ship or otherwise dispose of prunes from his plant to another handler's plant without having an inspection made as provided for in subparagraph (4) of this paragraph: *Provided,* That, a prompt report of such inter-handler transfer is made by the transferring handler to the committee.

(6) *Defective prunes accumulated from standard prunes.* Any defective prunes which may be accumulated by a handler, by removing them from standard prunes, may be marketed only for disposition as animal feed, as pitted prunes, or as prune products in which they lose their form and character as prunes, by conversion prior to consumption, and the committee shall establish any such rules and regulations as may be necessary to ensure such uses.

§ 993.5 *Salable and surplus tonnage regulations*—(a) *Method of establishment.* After considering all available information and factors used in formulating the marketing policy, the committee, prior to July 15 in any crop year except the first crop year under the operation hereof, and in the first crop year, prior to July 15 or 15 calendar days after the effective date hereof, whichever is later, shall recommend to the Secretary the establishment of a salable percentage and a surplus percentage during the crop year for which the marketing policy has been developed. Whenever the Secretary finds from the recommendation and information submitted by the committee, or from other available information, that to establish a salable percentage and surplus percentage of prunes for any crop year would tend to effectuate the declared policy of the act, he shall so establish such percentages. The total of the salable and surplus percentages fixed each crop year shall equal 100 percent. The salable and surplus percentages fixed for any crop year as provided herein, shall remain in full force and effect during the following crop year until such percentages are fixed for the following crop year. The committee shall give reasonable notice to all handlers and producers of any such percentages made effective by the Secretary, including but not limited to, written notice by registered mail to all handlers of whom the committee has a record.

(b) *Salable tonnage.* The salable tonnage of prunes of a handler shall be determined by the application of the salable percentage to the tonnage of prunes deliverable to such handler by producers. The handler may sell such salable tonnage in any manner he deems advisable subject to the applicable requirements specified in § 993.4. No handler shall handle any quantity of prunes in excess of his salable percentage, except such prunes as may be released from surplus tonnage as specified herein, and except such prunes as are covered by a diversion certificate as herein provided for. In no event, however, shall a handler be prevented from handling salable tonnage acquired by him from another handler who has received such tonnage from producers or other handlers in accordance with all the provisions hereof.

(c) *Surplus tonnage*—(1) *Computation.* The surplus tonnage of prunes of a handler shall be determined by the application of the surplus percentage to the tonnage of prunes delivered to such handler by producers. The committee shall authorize and permit a non-profit cooperative agricultural marketing association to concentrate the tonnage of its producer members, in accordance with the usual practice of such association, before applying the surplus tonnage provisions hereof.

(2) *Holding and delivery.* Each handler shall hold for the committee in proper storage, all surplus tonnage received by him until relieved of such obligation by the committee. The committee may, at any time, require a handler to deliver to it, or to anyone designated by it, at such handler's warehouse, surplus tonnage held by him. The committee may require that such delivery consist of natural condition prunes or it may arrange for such delivery to consist of processed prunes.

(3) *Substandard surplus prunes.* Substandard prunes, except those referred to in § 993.4 (b) (6) shall be held separate from standard prunes held by any handler. The commitee shall dispose of substandard prunes as expeditiously after collection as it is possible to do so, in any manner designated by the committee which is not contrary to any provisions hereof for the disposition of substandard prunes.

(4) *Storage facilities.* The committee may obtain and operate, or arrange for the use of, facilities for storage and handling of surplus tonnage.

(5) *Exchange.* The committee may establish methods and procedures, including compensating payments, for the exchange of tonnage between handlers and the committee, of grades and/or sizes of prunes in the surplus tonnage: *Provided, however,* That no such exchange shall be permitted of substandard prunes. Such transfers shall be on a negotiated basis.

(6) *Payment for services.* Handlers shall be paid for services required by the committee to be rendered in connection with surplus tonnage, including, but not limited to, receiving, storing, grading and fumigating, in accordance with a schedule of payments established by the committee and approved by the Secretary. If any handler prior to December 1 of the crop year demands removal of such surplus tonnage by the committee, such handler automatically waives payment for any and all charges that may have accrued for storing such surplus tonnage, including in and out charges. When any demand for removal is made, the committee shall remove such surplus tonnage from said handler's premises as expeditiously as possible and in any event within 30 days following receipt of written notice.

(7) *Deferment of obligation.* The committee may establish rules and regulations to provide for deferment for a handler in fulfilling surplus tonnage obligations: *Provided, however,* That such deferment is not permitted to extend beyond November 15 of the crop year for which such deferment is permitted, and provided that no handler shall be permitted to handle salable tonnage during such deferment period in excess of the tonnage represented by the application of the salable percentage to the total tonnage delivered by producers plus the tonnage for which such handler holds purchase contracts with producers.

(d) *Diversion privileges.* The word "prunes" as used in this paragraph means prunes as defined in § 993.1 (d) or plums used in the production of prunes. Any producer may divert all or a portion of his production of prunes to non-human use or may divert such prunes by leaving them unharvested, or may divert them to such other use as may be approved by the committee, subject to the following terms and conditions:

(1) The producer shall first make application in writing to the committee for permission to divert prunes, disclosing in such application whether such prunes are to be diverted to non-human use whether they are to be left unharvested or to what other use they are to be diverted, and describing in detail the location of such prunes or portion thereof.

(2) If the committee approves such application, it shall estimate the amount of the production to be so diverted, on a dried weight basis, and shall advise the applicant, in writing, of its estimate of such dried production and of its approval of the application to divert, subject to satisfactory proof by the applicant that such prunes have actually been diverted as stated in his application.

(3) After receipt by the committee of satisfactory proof of such diversion, the committee shall issue to the applicant and made out in his name, a certificate of salable tonnage or diversion certificate, for the weight of prunes equal to the salable percentage as applied to the estimated dried production.

(4) Such diversion certificate shall not be transferable to another producer, or a handler, or any other person, except with the approval of the committee, evidenced by its endorsement of approval on the certificate.

(5) A certificate of salable tonnage or diversion certificate, so issued, shall entitle a producer to deliver to a handler, and a handler to receive, the specified weight of prunes free from all surplus set aside requirements and shall entitle a handler, upon presentation of such certificate to the committee, to satisfy his surplus tonnage requirements to the extent of the weight of prunes specified in such certificate.

(6) Any producer who diverts prunes pursuant to the provisions hereof and any other holder of diversion certificate, shall not be entitled to participate in the

proceeds of the surplus tonnage for any prunes so diverted.

(7) Prior to the delivery of the diversion certificate to the producer, he shall pay to the committee the reasonable expense assessed by the committee for examining, estimating, weighing or otherwise supervising the diversion.

(e) *Disposition of surplus tonnage*—(1) *Purposes for which disposition may be made*—(i) *Sales to Federal government agencies.* The committee is authorized to sell or to sell to handlers for resale, surplus tonnage to Federal governmental agencies including, but not limited to, sales for domestic or foreign relief purposes or for foreign economic assistance. Such sales may be at negotiated prices with adequate consideration to probable processing costs.

(ii) *Sales for export.* In the event it appears that the total salable tonnage is not sufficient to meet the estimated domestic and foreign requirements due to the development or expansion of foreign markets to a greater extent than was anticipated at the time of estimating the salable percentage, the committee with the approval of the Secretary, may sell surplus tonnage standard prunes to handlers for sale into and for use in such foreign channels in such quantities as are necessary to meet the increased demand and may require proof that such prunes were disposed of in such channels. After January 1 of any crop year, the committee may sell to a handler surplus tonnage standard prunes to the extent that the handler has sold standard prunes into such unanticipated newly developed or expanded foreign markets.

(iii) *Sales for animal feed.* The committee may sell any surplus tonnage prunes for animal feed under supervision of the committee to ensure such use.

(iv) *Sales to handlers.* If the committee finds that total contracted sales by all handlers during the crop year exceed tonnage equal to more than 80 percent of the total salable tonnage received by all handlers plus a reasonable estimate of the unsold tonnage then in producers' hands available to handlers as salable tonnage, as of a date as near as practicable to the date of determination; or if the committee finds that more than 20 percent of the uncontracted salable tonnage is being so tightly held by relatively few handlers or producers so as to seriously restrict commerce in prunes and if 75 percent of all handlers have made a written request therefor and such requesting handlers have purchased over 65 percent of the salable tonnage purchased from producers to that date, the committee may, in either event, with the approval of the Secretary, sell to handlers standard prunes from the surplus tonnage for use as salable tonnage, subject to the following conditions:

(*a*) No such sale shall be made prior to December 15.

(*b*) No single sales offer of surplus tonnage to handlers shall exceed 20 percent of the original estimated salable tonnage.

(*c*) Such sales shall not be made by the committee at a price below that which reflects the average price received by producers for salable tonnage plus accrued charges for receiving and storing of surplus tonnage as shown by the reports required to be filed under the provisions of § 993.6.

(*d*) Except for such sales as are provided for in subdivision (ii) of this subparagraph, in any offer by the committee to sell surplus tonnage to handlers, each handler shall be given the first right to purchase his pro rata share of such offer; and in case any handler declines or fails to purchase any or all of such share, the remaining portion thereof shall be re-offered to all handlers who purchased all of their respective shares, in proportion to their respective purchases. Any balance remaining unsold after such re-offer shall be withdrawn from the particular offer to sell. Any offer outstanding as of July 5 of any crop year shall be withdrawn and the committee shall not make any further offer to sell surplus tonnage to handlers after that date, except that if the committee determines, with the approval of the Secretary, that a major change in conditions has occurred which indicates a shortage of supply, such as the involvement of the United States in war or a crop failure in the following year, or any other significant development materially changing the marketing outlook for prunes, the said July 5 limitation shall no longer apply.

(v) *Sales of substandard prunes for manufacturing purposes.* The committee may sell, or sell to handlers for resale, substandard prunes for manufacturing purposes in which they lose their form and character as prunes, by conversion prior to consumption: *Provided,* That, no such sale shall be made while standard prunes are available in the surplus tonnage; and *Provided, further,* That such sales shall be made in such manner as will ensure such use.

(vi) *Donations of surplus prunes.* The committee may donate limited quantities of surplus prunes for use by others in research or promotional activities.

(vii) *Unsold surplus tonnage.* The committee shall endeavor to sell all prunes in the surplus tonnage at a rate so as to achieve, as nearly as may be practicable, the complete disposition of the surplus tonnage not later than July 31 of the crop year. Any surplus tonnage remaining unsold as of July 31 shall be disposed of for non-human uses or destroyed.

(2) *Proceeds of sales of surplus tonnage*—(i) *Charges against proceeds.* Direct expenses incurred in the maintenance and disposition of the surplus tonnage shall be charged against the proceeds of sales of the surplus tonnage.

(ii) *Distribution of net proceeds.* Net proceeds from the disposition of surplus tonnage shall be distributed by the committee either directly or through handlers as agents of the committee, under safeguards to be established by the committee, to producers in proportion to their contributions thereto or to others as their interests may appear with appropriate grade and size differentials as established by the committee. Progress payments may be made by the committee in the same manner, as sufficient funds accumulate. Payments due to producer members of a nonprofit cooperative agricultural marketing association shall be made directly to the association.

(3) *Prohibition against the hypothecation of surplus.* In no event shall the committee hypothecate surplus tonnage.

§ 993.6 *Reports and books and other records*—(a) *Confidential information.* All reports and records furnished or submitted by handlers to the committee shall be received by and at all times kept in the custody and under the control of one or more confidential and bonded employees of the committee, who shall disclose to no person whomsoever, except the Secretary upon request therefor, data or information obtained or extracted therefrom which will constitute a trade secret or the disclosure of which might affect the trade position, financial condition or business operations of the particular handler from whom received. Such employees may be required by the committee to disclose to it and to any other person designated by the committee or by the Secretary, information compiled from data submitted by handlers or gathered by the committee or its agents: *Provided,* That, the identity of any particular handler is not disclosed thereby. Notwithstanding the above provisions of this paragraph, information may be disclosed to the committee when reasonably necessary to enable the committee to carry out its powers and duties hereunder.

(b) *Reports of acquisitions, sales and shipments.* Each handler shall file such reports of his acquisitions, sales and shipments as may be requested by the committee.

(c) *Reports of prices.* Each handler shall file such price reports as may be requested by the committee showing the weighted average basis prices paid by such handler to producers, including the quantity of prunes purchased at such prices, to enable the committee to determine the average price received by producers for the purposes set forth in § 993.5 (e) (1) (iv) (*c*), which requires such determination.

(d) *Reports of surplus tonnage.* Each handler shall file with the committee such reports of the total surplus tonnage and size classifications of surplus prunes held in his warehouses or under his control and the location thereof, as may be requested by the committee.

(e) *Other reports.* Upon the request of the committee, approved by the Secretary, each handler shall furnish such other reports and information as may be needed to enable the committee to perform its duties and exercise its powers hereunder.

(f) *Verification of reports.* For the purpose of checking and verifying reports made by handlers or the operation of handlers under the provisions hereof, the committee, through its duly authorized agents, shall have access to any premises where prunes may be held by any handler and at any time during reasonable business hours, shall be permitted to inspect any prunes so held by such handler and any and all records of such handler with respect to the holding or disposition of all prunes which may be held or which may have been disposed of by him.

§ 993.7 *Expenses and assessments*—(a) *Expenses.* The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee (exclusive of direct expenses for the maintenance and disposition of the surplus tonnage) and for such other purposes as the Secretary may, pursuant to the provisions hereof, determine to be appropriate.

(b) *Assessments*—(1) *Requirement for payment.* The funds to cover the expenditures of the committee (exclusive of direct expenses for maintenance and disposition of surplus tonnage) shall be acquired by levying assessments. Each handler shall pay to the committee, upon demand, the assessment provided hereinafter with respect to all salable tonnage prunes handled by him as the first handler thereof and on all prunes sold to him from surplus tonnage for resale to others than Federal governmental agencies.

(2) *Rate of assessment.* Beginning with the effective date hereof, the aforesaid assessment shall be at the rate of 75 cents per ton and said rate shall continue in effect until changed by the committee, with the approval of the Secretary: *Provided, however,* That the Secretary shall not approve any assessment rate in excess of $1.25 per ton. The Secretary shall reduce the assessment rate if he finds that when thus reduced it will provide an amount of money sufficient to enable the committee properly to perform its functions hereunder.

(3) *Advance payments.* In order to provide funds to carry out the functions of the committee, the committee may accept advance payments by handlers, such advance payments to the committee to be credited towards the total assessment due from such handlers for the crop year.

(4) *Disposition of excess funds from assessments.* If the first audit after the end of any crop year shows that the assessments collected for such crop year exceed the expenses incurred with respect to such crop year, the excess shall be credited to the handlers in proportion to their relative total assessments and the portion to which he is entitled shall be credited against his assessments in the following crop year, unless the handler shall request payment, in which event prompt payment shall be made.

(5) *Suits for collection.* The committee may, with the approval of the Secretary, maintain in its own name, a suit against any handler for the collection of such handler's assessment.

§ 993.8 *Personal liability.* No member or alternate member of the committee, or any employee, representative, or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person, for errors of judgment, mistakes, or any acts either of commission or ommission, as such member, alternate member, employee, representative, or agent, except for acts of dishonesty.

§ 993.9 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder thereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 993.10 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 993.11 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof except with respect to acts done under and during the existence hereof.

§ 993.12 *Agents*—(a) *Authorization by Secretary.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

(b) *Authorization by committee.* The committee may authorize any person or persons or agency to act as its agent or representative in connection with the provisions hereof.

§ 993.13 *Effective time, termination or suspension*—(a) *Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination or suspension*—(1) *Failure to effectuate policy of act.* The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release or in any other manner which he may determine. The Secretary shall terminate or suspend the operation of any or all of the provisions hereof, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(2) *Referendum.* The Secretary shall terminate the provisions hereof on or before the 15th day of July of any crop year, to be effective at the end of such crop year, whenever he is required to do so by the provisions of section 8c (16) (B) of the act. In order to provide a periodic basis for determining whether or not producers desire the program to be terminated, as provided in said section, the Secretary shall cause to be held each two years, beginning in 1951, a referendum of producers. Any such referendum shall be held during the first six calendar months of the year.

(3) *Termination of act.* The provisions hereof shall terminate, in any event, upon the termination of the act.

(c) *Procedure upon termination.* Upon the termination hereof, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee. Action by such trustees shall require the concurrence of a majority of the said trustees. Such trustees shall continue in such capacity until discharged by the Secretary, and shall account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all the funds, properties, and claims vested in the committee or the joint trustees, pursuant hereto. Any person to whom funds, property or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said committee and upon said joint trustees.

§ 993.14 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof or any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person, with respect to such violation.

§ 993.15 *Amendments.* Amendments hereto may be proposed from time to time, by any party hereto or by the committee, and may be made a part hereof by the procedures provided under the act.

§ 993.16 *Counterparts.* This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.*

§ 993.17 *Additional parties.* After the effective date hereof, any handler may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges and immunities conferred by this agreement shall then be effective as to such new contracting party.*

§ 993.18 *Order with marketing agreement.* Each signatory handler favors and approves the issuance of an order by the Secretary, regulating the handling of prunes in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.*

Copies of this notice of hearing may be obtained or inspected, prior to the hearing, at the office of the Hearing Clerk,

U. S. Department of Agriculture, Room 1846, South Agricultural Building, Washington, D. C.; at the Western Marketing Field Office, Fruit and Vegetable Branch, Production and Marketing Administration, U. S. Department of Agriculture, 2180 Milvia Street, P. O. Box 773, Berkeley 1, California; or at the offices of the County Agricultural Conservation Associations in commercial dried prune producing counties in California.

Dated: February 21, 1949, at Washington, D. C.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator.

EXHIBIT A

I. MINIMUM STANDARDS FOR NATURAL CONDITION PRUNES

A. *Defects.* Defects are: (1) off-color; (2) inferior meat condition; (3) fermentation; (4) skin or flash damage; (5) scab; (6) burned; (7) mold; (8) imbedded dirt; (9) insect infestation; (10) decay.

B. *Explanation of terms.* (1) "Off-color" means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) "Inferior meat condition" means flesh which is fibrous, woody or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) "Fermentation" means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

(4) "Skin or flesh damage" means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, aggregating more than three-eighths of one inch (⅜") in length;

(b) Splits or skin breaks exposing flesh and affecting materially the normal appearance of the prunes;

(c) Any cracks, splits or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect appearance edibility or keeping quality.

(5) "Scab" means tough or thick scab exceeding in the aggregate the area of a circle three-eighths inch (⅜") in diameter or by unsightly scab of another character exceeding in the aggregate the area of a circle three-fourths inch (¾") in diameter.

(6) "Burned" means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(7) "Mold" means a characteristic fungus growth and is self-explanatory.

(8) "Imbedded dirt" means the presence of dirt or other extraneous material so imbedded in or adhering to the prune that it cannot be removed in normal processing.

(9) "Insect infestation" means the presence of insects, insect fragments or insect remains.

C. *Maximum tolerance.* Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) The tolerance allowance for decay shall not exceed one percent (1%).

(2) The combined tolerance allowance for mold, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%).

(3) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed ten percent (10%).

(4) The combined tolerance for off-clear, inferior meat condition, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed twenty percent (20%).

(5) Prunes showing obvious live insect infestation shall be fumigated prior to acceptance.

II. MINIMUM STANDARDS FOR PROCESSED PRUNES

A. *Defects.* Defects are: (1) Off-color; (2) Inferior meat conditions; (3) Fermentation; (4) Skin or flesh damage; (5) Scab; (6) Burned; (7) Mold; (8) Imbedded dirt; (9) Insect infestation; (10) Decay.

B. *Explanation of terms.* (1) "Off-color" means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) "Inferior meat condition" means flesh which is fibrous, woody or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) "Skin or flesh damage" means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, aggregating more than three-eights of one inch (⅜") in length;

(b) Splits or skin breaks exposing flesh and affecting the normal appearance of French prunes; or markedly affecting the normal appearance of varieties other than the French variety;

(c) Any cracks, splits or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect the appearance, edibility or keeping quality.

(4) "Scab" means tough or thick scab exceeding in the aggregate the area of a circle three-eighths of one inch (⅜") in diameter, or by unsightly scab of other character exceeding in the aggregate the area of a circle three-fourths of one inch (¾") in diameter.

(5) "Burned" means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(6) "Mold" means a characteristic fungus growth and is self-explanatory.

(7) "Imbedded dirt" means the presence of dirt or other extraneous material so imbeded in or adhering to the prune that it cannot be removed in normal processing.

(8) "Insect infestation" means the presence of insects, insect fragments or insect remains.

(9) "Fermentation" means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

C. *Maximum tolerances.* Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) There shall be no tolerance allowance for live insect infestation.

(2) The tolerance allowance for decay shall not exceed one per cent (1%).

(3) The combined tolerance allowance for mold, imbedded dirt, insect infestation, and decay shall not exceed five per cent (5%).

(4) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation and decay shall not exceed ten per cent (10%).

(5) The combined tolerance for off-color, inferior meat condition, fermentation, scab, burned, mold, imbedded dirt, insect infestation and decay shall not exceed twenty per cent (20%).

[F. R. Doc. 49-1450; Filed, Feb. 24, 1949; 9:06 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR, Ch. V]

SPECIAL INDUSTRY COMMITTEE FOR VIRGIN ISLANDS

NOTICE OF PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE TO BE CONSIDERED IN RECOMMENDING MINIMUM WAGE RATES FOR EMPLOYEES IN VIRGIN ISLANDS

In conformity with sections 5 (c) and 8 of the Fair Labor Standards Act of 1938 (section 3 (c), 54 Stat. 615, section 8, 52 Stat. 1064; 29 U. S. C. 205 (c), 208) and with § 511.11 of the regulations issued pursuant thereto (Title 29, Chapter V of the Code of Federal Regulations, Part 511), notice is hereby given to all interested persons that a public hearing will be held at the times and places hereinafter specified, for the purpose of receiving evidence to be considered by the Special Industry Committee for the Virgin Islands, in determining the highest minimum wage rates for all employees in said islands who, within the meaning of the said act, are "engaged in commerce or in the production of goods for commerce," which, having due regard to economic and competitive conditions, will not substantially curtail employment and will not give any industry in the Virgin Islands a competitive advantage over any industry in the United States outside of the Virgin Islands.

The Special Industry Committee for the Virgin Islands was created by Administrative Order No. 387, published in the FEDERAL REGISTER, on February 9, 1949. It is charged, in accordance with the provisions of the Fair Labor Standards Act of 1938, as amended, and rules and regulations promulgated thereunder, with the duty of investigating conditions in the industries in the Virgin Islands and of recommending to the Administrator minimum wage rates which may not be higher than 40¢ per hour for all employees in the Virgin Islands who within the meaning of said act are "engaged in commerce or in the production of goods for commerce" excepting employees exempted by the provisions of section 13 (a) and employees coming under the provisions of section 14. Before any minimum wage rates recommended by the Committee are made effective, a public hearing will be held pursuant to section 8 of the act, at a time and place to be announced by the Administrator, and at which all interested persons will have an opportunity to be heard.

Administrative Order No. 387 directed the Special Industry Committee for the Virgin Islands to proceed to investigate conditions and to recommend to the Administrator minimum wage rates for all employees in the industries in said islands and in such order as the Committee may elect.

The public hearing for the purpose of receiving evidence to be considered by the Committee in determining the highest minimum wage rates for all employees in the Municipality of St. Thomas and St. John, Virgin Islands, will be held beginning on March 15, 1949 at 10:00 a. m. in

the Municipal Council Chamber, Charlotte Amalie, St. Thomas, Virgin Islands.

The public hearing for the purpose of receiving evidence to be considered by the Committee in determining the highest minimum wage rates for all employees in the Municipality of St. Croix, Virgin Islands, will be held beginning on March 21, 1949 at 10:00 a. m. in the Federal Court Room, Christiansted, St. Croix, Virgin Islands.

Any person who, in the opinion of the Committee or its duly authorized subcommittee, has a substantial interest in the proceeding and is prepared to present material pertinent to the question under consideration, may appear on his own behalf or on behalf of any other person. Persons wishing to appear are requested to file with Russell Sturgis, Territorial Director of the Wage and Hour Division, New York Department Store Building, Post Office Box 3906, Santurce 29, Puerto Rico, not later than March 11, 1949, notice of intention to appear. This notice of intention to appear should contain the following information.

1. The name and address of the person appearing.

2. If he is appearing in a representative capacity, the name and address of the person or persons whom, or the organization which, he is representing.

3. The approximate length of time which his presentation will consume.

All testimony will be taken under oath and subject to reasonable cross-examination by any interested person present. Testimony so received will be offered as evidence at the public hearing to be held on such minimum wage recommendations as the Special Industry Committee for the Virgin Islands may make.

Written statements of persons who cannot appear personally will be considered by the Committee provided that such statements are sworn and that at least six copies thereof are received not later than March 10, 1949, at the Wage and Hour Division of the United States Department of Labor, New York Department Store Building, Post Office Box 3906, Santurce 29, Puerto Rico. Any person appearing at the hearing who offers written material must submit six copies thereof.

Signed at Christiansted, St. Croix, Virgin Islands, this 15th day of February 1949.

CANUTE A. BRODHURST,
Chairman, Special Industry Committee for the Virgin Islands.

[F. R. Doc. 49-1454; Filed, Feb. 24, 1949; 9:08 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WYOMING

NOTICE FOR FILING OBJECTIONS TO ORDER RESERVING CERTAIN PUBLIC LANDS IN CONNECTION WITH THE TONGUE RIVER DEER REFUGE AND WINTER PASTURE [1]

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

FEBRUARY 11, 1949.

[F. R. Doc. 49-1429; Filed, Feb. 24, 1949; 8:51 a. m.]

ALASKA

SMALL TRACT CLASSIFICATION NO. 9

FEBRUARY 18, 1949.

Pursuant to the authority delegated to me by the Director, Bureau of Land Management by Order No. 319, dated July 19, 1948 (43 CFR 50.451 (b) (3), 13 F. R. 4278), I hereby classify, as hereinafter indicated, under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. Sec. 682 (a)), as amended, the following described public lands in the Anchorage, Alaska land district, embracing 91.67 acres:

For leasing and sale—for home, cabin and business sites:

HOMER AREA

T. 6 S., R. 13 W., Seward Meridian
Sec. 22: Lot 4.
T. 6 S., R. 14 W., Seward Meridian
Sec. 15: N½S½NW¼, SW¼SW¼NW¼, SE¼SE¼NW¼.

2. The lands are located approximately from four to five miles from Homer, and are readily accessible, being located on or near good roads. The land is subject to coastal weather with the usual extended period of precipitation. Churches, schools and marketing facilities are available at Homer. It is expected that electric transmission lines will be extended and made available to the area under a REA project which it is reported will be completed during 1949.

3. Pursuant to § 257.9 of the Code of Federal Regulations (43 CFR, Part 257), a preference right to a lease is accorded to those applicants whose applications (a) were regularly filed, under the regulations issued pursuant to the act, prior to this classification, and (b) are of the type of site for which the lands subject thereunder have been classified. As to such applications, this order shall become effective upon the date which it is signed.

4. As to the lands not covered by the applications referred to in paragraph 3, this order shall not become effective to permit the leasing of such land under the Small Tract Act of June 1, 1938, cited above, until 10:00 a. m. on April 22, 1949. At that time such land shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection, as follows:

(a) *Ninety-day period for other preference-right filings.* For a period of 90 days from 10:00 a. m., on April 22, 1949, to close of business on July 21, 1949, inclusive, to (1) application under the Small Tract Act of June 1, 1938, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. Secs. 279, 282) as amended, and by other qualified persons entitled to credit for service under the said act, subject to the requirements of applicable law, and (2) application under any applicable public law, based on prior existing valid settlement and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans and by other persons entitled to credit for service shall be subject to claims of the classes described in subdivision (2).

(b) *Advance period for simultaneous preference-right filings.* All applications by such veterans and persons claiming preference rights superior to those of such veterans filed on February 18, 1949, or thereafter, up to and including 10:00 a. m. on April 22, 1949, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public laws.* Commencing at 10:00 a. m. on July 22, 1949, any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally.

(d) *Advance period for simultaneous non-preference-right filings.* Applications under the Small Tract Act by the general public filed on February 18, 1949, or thereafter, up to and including 10:00 a. m. on July 22, 1949, shall be treated as simultaneously filed.

5. Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or

[1] See F. R. Doc. 49-1428, Title 43, Chapter I, Appendix, *supra*.

naval service. Other persons entitled to credit for service shall file evidence of their right to credit in accordance with 43 CFR 181.36. Persons asserting preference rights, through settlement or otherwise, and those having equitable claim, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

6. All applications referred to in paragraphs 3 and 4, which shall be filed in the district office at Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent that such regulations are applicable. Applications under the Small Tract Act of June 1, 1938 shall be governed by the regulations contained in Part 257 of Title 43 of the Code of Federal Regulations.

7. Lessees under the Small Tract Act of June 1, 1938, will be required, within a reasonable time after execution of the lease, to construct upon the leased land, to the satisfaction of the appropriate officer of the Bureau of Land Management authorized to sign the lease, improvements which, in the circumstances, are presentable, substantial and appropriate for the use for which the lease is issued. Leases will be for a period of not more than five years, at an annual rental of $5.00 for home and cabin sites, payable in advance for the entire lease period. The rental for business sites will be in accordance with a schedule of graduated charges based on gross income, with a minimum charge of $20.00 payable yearly in advance, the remainder, if any, to be paid within thirty days after each yearly anniversary of the lease. Leases will contain an option to purchase the tract at or after the expiration of one year from the date the lease is issued, provided the terms and conditions of the lease have been met.

8. All of the land will be leased in tracts of approximately 5 acres, in accordance with the classification maps on file in the District Land Office, Anchorage, Alaska. The tracts where possible are made to conform in description with the rectangular system of survey, being approximately 330 by 660 feet, in compact units.

9. The leases will be made subject to the reservation of a road right-of-way for use of the public, of 33 feet in width, on each side of the tracts contiguous to the section and/or quarter section lines, as shown on the classification maps on file in the District Land Office, Anchorage, Alaska.

10. All inquiries relating to these lands shall be addressed to the Manager, District Land Office, Anchorage, Alaska.

ROGER R. ROBINSON,
Acting Regional Administrator.

[F. R. Doc. 49-1418; Filed, Feb. 24, 1949; 8:50 a. m.]

Office of the Secretary

DESIGNATION OF SAN JUAN NATIONAL HISTORIC SITE, PUERTO RICO

Whereas, the Congress of the United States has declared it to be a national policy to preserve for the public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States;

Whereas, the ancient fortifications of San Juan, Puerto Rico, particularly the massive masonry works of El Morro and San Cristobal and their connecting walls, are outstanding monuments of the past, possessing exceptional historical and architectural interest for the Nation, and have been declared by the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments to possess exceptional importance as commemorating the history of the United States; and

Whereas, with the approval of the President, a cooperative agreement has been made between the Secretary of the Interior and the Secretary of the Army providing for the preservation of the ancient fortifications of San Juan and their designation as a national historic site:

Now, therefore, I, J. A. Krug, Secretary of the Interior, under and by virtue of the authority conferred by section 2 of the act of August 21, 1935 (49 Stat. 666; 16 U. S. C. 462), do hereby designate the fortresses of El Morro and San Cristobal, Casa Blanca, and El Canuelo on Cabras Island, including the areas shown on the diagram, marked "Exhibit A," annexed hereto and made a part hereof, to be a national historic site, having the name "San Juan National Historic Site."

The administration, protection, and development of this national historic site shall be exercised in accordance with the provisions of the above-mentioned cooperative agreement and the act of August 21, 1935, supra.

Warning is expressly given to all unauthorized persons not to appropriate, injure, destroy, deface, or remove any feature of this historic site.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of the Interior to be affixed, at the City of Washington, this 14th day of February 1949.

[SEAL] J. A. KRUG,
Secretary of the Interior.

[F. R. Doc. 49-1402; Filed, Feb. 24, 1949; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Project No. 1922]

CITY OF KETCHIKAN, ALASKA

NOTICE OF ORDER EXTENDING TIME FOR COMPLETING CONSTRUCTION

FEBRUARY 18, 1949.

Notice is hereby given that, on February 16, 1949, the Federal Power Commission issued its order entered February 15, 1949, extending time for completing construction until December 31, 1949, in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-1419; Filed, Feb. 24, 1949; 8:50 a. m.]

[Project No. 1966, Docket No. IT-5543]

WISCONSIN PUBLIC SERVICE CORP.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF LICENSE (MAJOR) AND TERMINATING ORDER TO SHOW CAUSE

FEBRUARY 18, 1949.

Notice is hereby given that, on February 17, 1949, the Federal Power Commission issued its order entered February 15, 1949, authorizing issuance of license (major) in Project No. 1966, and terminating proceedings instituted March 7, 1939, in Docket No. IT-5543 relative to the operation of the Grandfather Falls project on the Wisconsin River, Wisconsin.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-1420; Filed, Feb. 24, 1949; 8:50 a. m.]

[Docket Nos. E-6185, E-6195]

ARKANSAS-MISSOURI POWER CO. ET AL.

ORDER SETTING HEARING ON APPLICATION FOR APPROVAL OF LEASE AND ON FILING RATE SCHEDULES, CONSOLIDATING PROCEEDINGS, AND SUSPENDING RATE SCHEDULES

FEBRUARY 17, 1949.

In the matters of Arkansas-Missouri Power Company and St. Francis Electric Generating Company, Docket No. E-6185; Arkansas Power & Light Company and Arkansas-Missouri Power Company, Docket No. E-6195.

Arkansas-Missouri Power Company (Ark-Mo), and St. Francis Electric Generating Company (St. Francis) filed a joint application on January 17, 1949, and on January 24, and February 2, 1949, amendments and supplements thereto, pursuant to section 203 of the Federal Power Act, for approval of a lease to Ark-Mo by St. Francis of a 30,000 KW steam generating station to be constructed at Campbell, Missouri, by St. Francis, and alternatively, for a denial of the application for want of jurisdiction.

Arkansas Power & Light Company, on January 26, 1949, filed a proposed Service Schedule B, as amended, together with a proposed form of agreement with St. Francis and Ark-Mo (three party contract) for sale and interchange of electric energy, tentatively designated as Supplement No. 1 to Arkansas Power & Light Company Rate Schedule FPC No. 13. On January 27, 1949, Ark-Mo filed a concurrence therein, tentatively designated Arkansas-Missouri Power Company Rate Schedule FPC No. 10. The proposed rate schedule and contract include provisions which would (1) reduce AP&L's present obligation to supply all of Ark-Mo's power requirements to not more than 45,000 KW after the in-service date of the leased station; (2) change the fuel clause so as to increase the charges by AP&L; and (3) obligate AP&L not to sell Ark-Mo any power in the event Ark-Mo loses the right to operate the leased generating station unless Ark-Mo purchases firm power from St. Francis, to the extent, up to 30,000 KW, that St. Francis shall have unused capacity. The

parties request that the filings take effect as of October 31, 1948.

The rate schedule is filed in contemplation of the taking effect of the lease referred to above, and the application for approval of the lease is filed in contemplation of the taking effect of the rate schedule.

From a preliminary examination of the filings it appears that: (a) Ark-Mo may be a public utility within the meaning of that term as used in the Federal Power Act, and by the proposed lease it may directly or indirectly merge or consolidate its facilities subject to the jurisdiction of this Commission with those of another person within the meaning of, and subject to, the requirements of section 203 (a) of the act.

(b) A further showing is necessary or appropriate to enable the Commission to determine whether such lease of facilities by Ark-Mo is not inconsistent with the public interest and particularly with respect to the following:

(1) The reasonableness of the estimated operating expenses of St. Francis and the reasonableness of the profits to any one individual or group of individuals interested in St. Francis, derived from rental payments under the lease or other agreements;

(2) The necessity and propriety of the proposed method of supplying the increasing power requirements in the area; of the use of a separate corporation for that purpose; of the relatively small common stock investment in that corporation; of the pledge of such common stock; of the default provisions; and of the other contingent arrangements;

(3) The effect of the proposals on Ark-Mo's costs of service and ability to serve, as well as the effect thereon, in case of a default by Ark-Mo under the lease;

(4) The relation of the corporations involved and the individuals interested therein to each other and the extent to which the negotiations have been at arm's length.

(c) The change in service and rates provided by the new rate schedule may be:

(1) Unfair and unreasonable in conditioning Arkansas Power & Light Company's obligation to serve upon Ark-Mo's acquiring and operating generating capacity by the proposed lease arrangement;

(2) Unjustifiable if the lease, after hearing, is not approved;

(3) Unreasonable in restricting Arkansas Power & Light Company from supplying Ark-Mo under certain contingencies, as referred to above;

(4) Unreasonable in its effect on Ark-Mo's ability to serve or its cost of service, or may subject Ark-Mo or its customers to an undue prejudice or disadvantage or amount to an unreasonable difference in rates and charges as between localities or classes of service.

The Commission finds: It is necessary, desirable and in the public interest that the Commission enter upon a hearing concerning the proposed lease and a hearing concerning the lawfulness of the rate schedules filed; that said rate schedules be suspended pending such hearing and decision thereon; and that the two proceedings be consolidated for the purpose of such hearing.

The Commission orders:

(A) A public hearing be held commencing on March 23, 1949, at 10:00 a. m. in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, NW., Washington, D. C., on the matters involved in the application and on the lawfulness of the proposed rate schedule.

(B) Pending such hearing and decision by the Commission the rate schedules filed be suspended and the use of the rates and service therein provided for deferred until July 25, 1949, or such earlier date as the Commission shall provide by further order.

(C) During the period of suspension Arkansas Power & Light Company's Rate Schedule FPC No. 13 shall remain and continue in effect.

(D) At such hearing the burden of proof shall be upon the parties making such filings including a full showing with respect to the matters hereinabove referred to.

Date of issuance: February 18, 1949.

By the Commission. Commissioners Draper and Wimberly dissenting.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-1433; Filed, Feb. 24, 1949; 8:52 a. m.]

[Docket No. G-1110]

WAYNESBORO GAS CO.

ORDER PERMITTING WITHDRAWAL FROM STIPULATION AGREEING TO WITHDRAW APPLICATION, REOPENING PROCEEDING AND FIXING DATE FOR FURTHER HEARING

FEBRUARY 17, 1949.

On January 28, 1949, the Waynesboro Gas Company (Applicant) filed a motion requesting that:

(1) It be permitted to withdraw from its oral stipulation made during the course of hearing in the above matter on December 3, 1948,[1] whereby it withdrew without prejudice its application filed August 27, 1948, pursuant to section 7 (a) of the Natural Gas Act.

(2) The proceeding be reopened for the limited purpose of receiving in evidence Applicant's Exhibits 1, 2, 3 and 4.

(3) The Manufacturers Light and Heat Company be directed to establish a physical connection with the Applicant's distribution mains for the purpose of supplying natural gas to Applicant for distribution in Waynesboro, Pennsylvania.[2]

No reply to Applicant's motion of January 28, 1949, has been filed by the Manufacturers Light and Heat Company.

The request of the Applicant to withdraw its application filed August 27, 1948, was due to representations made by counsel for the Manufacturers Light and Heat Company during the course of hearing to the effect that before the Columbia Gas System, Inc., took on any new markets whatsoever, the Manufacturers Light and Heat Company would file an application pursuant to section 7 (c) of the Natural Gas Act, as amended, to supply gas in Waynesboro, Pennsylvania, under the terms of an existing agreement between the two companies.

Applicant's motion filed January 28, 1949, alleges that since the close of the hearing in this matter on December 3, 1948, Columbia Gas System, Inc., has refused to be bound by the representations made by counsel for the Manufacturers Light and Heat Company.

The Commission finds: (1) Good cause has been shown by Applicant in support of its request to withdraw from its stipulation herein referred to and to reopen the proceeding.

(2) It is appropriate that the proceeding be reopened and further hearing be held with respect to the matters referred to in paragraph (3), above.

The Commission orders:

(A) The motion of applicant to withdraw from its stipulation made as of December 3, 1948, with reference to withdrawal of its application for an order, pursuant to section 7 (a) of the Natural Gas Act, as amended, be and it is hereby granted.

(B) The proceeding in the above-entitled matter be and the same is hereby reopened for the purpose of taking additional evidence bearing upon the application filed by the Waynesboro Gas Company on August 27, 1948, and reply thereto filed by the Manufacturers Light and Heat Company on September 27, 1948.

(C) Pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a public hearing in the above-entitled proceeding be held commencing on April 6, 1949, at 10:00 a. m., (e. s. t.), in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure.

Date of issuance: February 21, 1949.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-1434; Filed, Feb. 24, 1949; 8:51 a. m.]

---

[1] A public hearing in this matter was convened on December 2, 1948, and concluded on December 3, 1948.

[2] The matter herein set forth was the subject of Waynesboro Gas Company's application filed August 27, 1948.

FEDERAL TRADE COMMISSION

[File No. 21-419]

PEAT INDUSTRY

NOTICE OF HOLDING OF TRADE PRACTICE CONFERENCE

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 21st day of February 1949.

Notice is hereby given that a trade practice conference will be held by the Federal Trade Commission for the Peat

Industry on March 22, 1949, in Room 332, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D. C., commencing at 10 a. m., e. s. t.

Products of the industry involved are peat and peat mixtures which are marketed for use as a soil conditioner or fertilizer, or for other horticultural or agricultural purposes including that of poultry or barnyard litter. All persons and concerns engaged in the marketing of such products are cordially invited, as members of the industry, to attend or send representatives to the conference and to participate in the proceedings.

The conference and further proceedings in the matter will be directed toward the eventual establishment and promulgation by the Commission of trade practice rules for the industry under which unfair methods of competition, unfair or deceptive acts or practices, and other trade abuses, may be eliminated and prevented.

By directon of the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 49-1438; Filed, Feb. 24, 1949; 8:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-127, 59-3, 59-12]

ELECTRIC BOND AND SHARE CO. ET AL.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of February A. D. 1949.

Electric Bond and Share Company ("Bond and Share"), a registered holding company, having filed a declaration pursuant to the Public Utility Holding Company Act of 1935 regarding the following transactions:

Bond and Share proposes to enter into an agreement with thirteen banks renewing for an additional period of two years its loans held by such banks in the aggregate amount of $12,000,000 which are due on February 25, 1949. The new loans will be evidenced by promissory notes bearing interest at the rate of 2½% per annum and maturing February 25, 1951. The promissory notes provide that without the consent of the holders of at least 66⅔% in principal amount of all the promissory notes, the company will not pay any dividends except out of surplus earned subsequent to December 31, 1946. In addition the company agrees to apply the proceeds from the sale of any securities amounting to $1,000,000 or more toward the payment of the notes.

A public hearing with respect to said declaration having been held after appropriate notice, and the Commission having considered the record and deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration be permitted to become effective and further deeming it appropriate to grant the request of the declarant that the order of the Commission herein become effective forthwith; and

Bond and Share having also requested that the order of the Commission approving the proposed transactions contain findings and recitations conforming to the provisions and requirements of section 1808 (f) of the Internal Revenue Code, as amended, and it appearing to the Commission that it is appropriate to grant such request in view of the fact that such notes are to be issued for the purpose of renewing an obligation incurred in connection with the retirement of Bond and Share's preferred stocks required by the Commission's order of September 6, 1946, pursuant to section 11 (b) (2) of the act;

It is ordered, That the said declaration be, and the same hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

It is further ordered and recited, That the transactions proposed in said declaration including, but without limitation, the issuance by Bond and Share of the said promissory notes aggregating $12,000,000 in principal amount, are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-1423; Filed, Feb. 24, 1949; 8:49 a. m.]

[File No. 54-176]

NORTH AMERICAN CO. ET AL.

NOTICE OF FILING OF PLAN AND NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 17th day of February 1949.

In the matter of the North American Company, Union Electric Company of Missouri, West Kentucky Coal Company, File No. 54-176.

Notice is hereby given that a joint application has been filed by the North American Company ("North American"), a registered holding company, and its subsidiaries, Union Electric Company of Missouri ("Union"), a registered holding company and a public utility company, and West Kentucky Coal Company ("West Kentucky"), a non-utility company, pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("act"), seeking approval of a plan with respect to West Kentucky. All interested parties are referred to said plan, which is on file in the office of the Commission for a description of the transactions therein proposed which are hereinafter summarized.

North American owns 100% of the outstanding Common Stock of both Union and West Kentucky. Union and its subsidiaries are engaged primarily in the transmission, distribution and sale of electric energy in a territory which includes the City of St. Louis, Missouri, and its environs, adjoining territory in Illinois including the City of East St. Louis, and areas surrounding Keokuk, Iowa and Osage, Missouri. West Kentucky is engaged primarily in mining coal in Kentucky and has two subsidiaries engaged in the sale of such coal.

North American has been directed by an order of this Commission, entered on April 14, 1942 under section 11 (b) (1) of the act, to sever its relationship with West Kentucky by disposing of its direct and indirect ownership, control and holding of securities issued and properties owned, controlled or operated by West Kentucky. Applicants assert that Union Electric is dependent for the economic operation of its system upon a readily available supply of coal and that Union Electric is unable to satisfy its fuel requirements from the output of its subsidiary, Union Colliery Company, or from other presently available supplies of coal. Applicants further assert that acquisition by Union Electric of a portion of West Kentucky's coal properties containing No. 9 coal would give Union Electric an assured and economical supply of high-grade fuel for a substantial part of its needs, and would also result ultimately in relief to Union Electric from certain obstacles to Union Electric's ability to finance future capital requirements due to certain provisions in Union Electric's mortgage.

Applicants propose the following transactions: (1) A corporation ("New Company") will be organized in Missouri with an authorized capital of $6,000,000 and one class of stock. West Kentucky will convey to New Company, in consideration for the issuance of approximately $2,950,000 of New Company stock, certain of West Kentucky's coal and other properties having an aggregate net depreciated carrying value on the books of West Kentucky of approximately $2,950,000. New Company will record the properties at such net depreciated book value and West Kentucky will record the stock of the New Company at a similar amount.

(2) West Kentucky will declare, out of earned surplus, and pay to North American, a dividend in the form of its holdings of stock of New Company. West Kentucky will charge earned surplus with the amount at which such stock is carried on its books and North American will record such stock at an equivalent amount, with a corresponding credit to earned surplus.

(3) North American will transfer the stock of New Company to Union as a capital contribution and will increase the carrying value of its investment in Union by the amount at which the stock was recorded on North American's books. Union will record the stock of New Company in an amount equivalent to the amount at which such stock was recorded by North American.

(4) Union will purchase for cash from New Company $350,000 of additional stock and will increase the carrying value of its investment in New Company by a similar amount.

(5) Within 90 days after completion of the transactions described in paragraph 3 above, North American will distribute, in partial liquidation, to its stockholders, its holdings of 857,264 shares of Common Stock of West Kentucky at the

rate of one share of West Kentucky stock for each ten shares of Common Stock of North American. North American will create capital surplus by a transfer from earned surplus in an amount sufficient to charge an amount equivalent to its carrying value of $3,801,542 for the shares of West Kentucky to be distributed. Scrip will be issued in lieu of fractional shares of West Kentucky Common Stock but the holders thereof will not be entitled to any rights as stockholders of West Kentucky. For a period of not less than one year after the date of issue of such scrip, such scrip may be combined with other scrip and exchanged for full shares of West Kentucky stock. Thereafter shares represented by outstanding scrip shall be sold and the proceeds thereof held for a period of six years for the benefit of the holders of outstanding scrip. After such period of six years any outstanding scrip shall become void and the cash held against such scrip shall be paid over to West Kentucky.

(6) West Kentucky will declare and pay to North American a dividend not in excess of the undistributed earnings of West Kentucky from January 1, 1949, to the date of distribution of the West Kentucky Common Stock to the common stockholders of North American.

Consummation of the plan is subject to certain conditions among which are the obtaining of all necessary approvals from regulatory agencies having jurisdiction, the securing of satisfactory tax rulings, and the entry by an appropriate court, if its aid in enforcement is sought, of a decree or order to enforce and carry out the terms of the plan.

The Commission being required by the provisions of section 11 (e) of the act, before approving any plan submitted thereunder, to find after notice and opportunity for hearing that the plan, as submitted or as modified, is necessary to effectuate the provisions of subsection (b) of section 11, and is fair and equitable to the persons affected thereby; and it appearing appropriate that notice be given and a hearing held with respect to said plan, and that said plan shall not become effective except pursuant to further order of the Commission:

It is ordered, That a hearing on said plan be held on the 28th day of March, 1949, at 10:00 a. m., e. s. t., at the office of the Securities and Exchange Commission, 425 Second Street NW., Washington, D. C. On such date the hearing room clerk in Room 101 will designate the room in which such hearing will be held.

It is further ordered, That Harold B. Teegarden, or any other officer or officers of this Commission designated by it for that purpose, shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

It is further ordered, That any person desiring to be heard in connection with these proceedings or proposing to intervene herein shall file with the Secretary of the Commission, on or before March 21, 1949, his request or application therefor, as provided by Rule XVII of the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the plan and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether, and to what extent, the portion of the Commission's order of April 14, 1942, relating to West Kentucky should be modified so as to permit the proposed separation of the properties of West Kentucky and the proposed retention in the North American system of the properties proposed to be transferred to New Company;

(2) Whether the plan, as submitted or as hereafter amended, is necessary to effectuate the provisions of section 11 (b) of the act;

(3) Whether the plan, as submitted or as hereafter modified, is fair and equitable to the persons affected by such plan;

(4) Whether the proposed capital contribution by North American to Union satisfies the requirements of section 12 of the act and Rule U-45 thereunder;

(5) Whether the proposed acquisition by North American from West Kentucky of the stock of New Company and by Union from North American of the stock of New Company satisfies the requirements of section 10 of the act and particularly the requirements of sections 10 (b) (3) and 10 (c) (1);

(6) Whether the accounting treatment to be accorded the proposed transactions, including the amount at which the property of New Company is to be recorded, is proper and in conformity with sound accounting principles and the Commission's Uniform System of Accounts for Public Utility Holding Companies and, particularly, whether the proposed transactions will result in an overstatement of the earned surplus account of North American;

(7) Whether the plan should be modified so as to provide that the applicants will pay such fees and expenses in connection with the plan or proceedings in respect thereto as the Commission may award, allow, or allocate; and, if so, whether the fees, expenses and other remuneration which may be claimed in connection with the plan and transactions incident thereto are for necessary services and are reasonable in amount; and

(8) Whether, and to what extent, the plan and amendments thereto, if any, should be modified, or terms and conditions imposed, to ensure adequate protection of the public interest and the interests of investors and consumers and to prevent circumvention of the act and the rules and regulations promulgated thereunder;

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to the North American Company, Union Electric Company of Missouri, West Kentucky Coal Company, the Federal Power Commission, the Public Service Commission of Missouri, the Illinois Commerce Commission and the City of St. Louis, Missouri, and that notice be given to all other persons by publication of a copy of this notice and order in the FEDERAL REGISTER and by general release of the Commission distributed to the press and mailed to the mailing list for releases under the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-1426; Filed, Feb. 24, 1949; 8:49 a. m.]

[File No. 70-2064]

WISCONSIN ELECTRIC POWER CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 18th day of February 1949.

Notice is hereby given that an application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") by Wisconsin Electric Power Company ("Wisconsin Electric"), a registered holding company, and a public utility company. The applicant-declarant designates sections 6, 7, 9 and 10 of the act and Rules U-42 and U-50 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than March 9, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law raised by said application-declaration proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time thereafter such application-declaration as filed, or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated pursuant to said act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and U-100 thereof.

All interested persons are referred to said application-declaration which is on file in the office of this Commission for a statement of the transactions therein proposed which are summarized below:

Wisconsin Electric proposes to issue and sell, pursuant to the competitive bidding requirements of Rule U-50 promulgated under the act, $10,000,000 principal amount of First Mortgage Bonds, --% Series, dated March 1, 1949, and due March 1, 1979, ("New Bonds"), to be issued under a Mortgage and Deed of

Trust dated October 28, 1938, as amended and supplemented by the Second Supplemental Indenture dated June 1, 1946, and under a Third Supplemental Indenture thereto to be dated March 1, 1949. The coupon rate per annum for said New Bonds (to be a multiple of ⅛ of 1%) and the price, exclusive of accrued interest, to be received by Wisconsin Electric for the New Bonds (to be not less than 100% nor more than 102¾% of the principal amount of such New Bonds) are to be determined by the competitive bidding.

Wisconsin Electric also proposes to issue and sell for cash 266,093 shares of Common Stock, par value $10 per share. The Company proposes to issue to the holders of its outstanding 2,660,928 shares of Common Stock transferable warrants carrying (a) a Right to Subscribe for shares of Common Stock on the basis of one share for each ten shares of Common Stock held of record (the record date, the period of the duration of the offer and the subscription price per share are to be supplied by amendment herein); and (b) the privilege to subscribe at the same subscription price per share for any additional number of shares not subscribed for through the exercise of Rights to Subscribe, subject to pro rata allotment of such additionally subscribed shares.

Wisconsin Electric proposes to enter into an agreement negotiated with Lehman Brothers, New York, New York, who were selected after negotiations with several investment bankers, and with Robert W. Baird & Co., Milwaukee, Wisconsin ("Managers") whereby they will agree to use their best efforts to form and manage a group of security dealers to solicit subscriptions to purchase the Common Stock being issued. The agreement provides for the payment by Wisconsin Electric to participating dealers of a fee of 25¢ per share purchased through their efforts, with a maximum fee of $250 as to shares purchased by any single warrant holder; and, in addition, the payment by Wisconsin Electric of a fee to the Managers equal to 15% of the aggregate amount payable to participating dealers but in no event to exceed $7,200. Wisconsin Electric estimates that the maximum fees payable under the proposed agreement, assuming 100% subscription through the efforts of dealers, will be approximately $65,000.

Wisconsin Electric requests authority to purchase and sell on the New York Stock Exchange shares of its Common Stock or Rights to Subscribe in order to stabilize the price of the Common Stock for the purpose of facilitating the proposed distribution and offering of its Common Stock. In this connection the Company represents that it will at no time acquire a net long position of shares of its Common Stock (including for the purpose the equivalent shares represented by Rights to Subscribe) in excess of 10% (26,609) of the shares of Common Stock being offered. The period during which such stabilization will occur is to be supplied by amendement herein.

The Company represents that the net proceeds to be received by Wisconsin Electric from the issue and sale of said New Bonds and additional Common Stock will be added to the general funds of the Company to meet, in part, the capital expenditures for the proposed additions to its property and for other corporate purposes, including reimbursement of its treasury for capital expenditures previously made. Wisconsin Electric estimates that its construction program for the three years, 1949, 1950, and 1951 will require capital expenditures of about $42,400,000.

Wisconsin Electric has filed an application with the Public Service Commission of Wisconsin for authorization with respect to the securities to be issued.

Wisconsin Electric requests that the Commission issue its order herein on or before March 11, 1949, and that the Commission accelerate the period provided by Rule U-50 for invitation of bids for the New Bonds so that the bids may be opened on or before March 21, 1949.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-1421; Filed, Feb. 24, 1949; 8:49 a. m.]

[File No. 70-2067]

STANDARD GAS AND ELECTRIC CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 23d of February 1949.

Notice is hereby given that an application has been filed pursuant to the Public Utility Holding Company Act of 1935 ("act") and the rules and regulations promulgated thereunder by Standard Gas and Electric Company ("Standard Gas"), a registered holding company. The applicant designates sections 9 and 10 of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than March 8, 1949 at 12:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application proposed to be controverted or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time thereafter, such application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application which is on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized below:

In partial compliance with the Commission's order of August 8, 1941 which requires in effect, among other things, that Standard Gas sever its relationship, both direct and indirect, with Northern States Power Company, a Minnesota corporation ("Northern States"). Standard Gas has notified the Commission pursuant to the provisions of Rule U-44 (c) under the act that it intends to sell by competitive bidding all or a part of the 364,684 shares of common stock of Northern States owned by Standard Gas. Bids for such stock will be invited by a newspaper advertisement which will provide that interested persons shall notify Standard Gas of their desire for an opportunity to purchase such stock. Thereafter Standard Gas will advise all such persons of the conditions of sale and the time for submitting bids (which time shall be not less than 12 hours after such advice has been given).

The foregoing proposed sale is not a part of the present application but in connection therewith and for the stated purpose of facilitating the proposed sale, Standard Gas seeks permission by the present application to stabilize the market price of Northern States Common Stock by purchases thereof on the New York Stock Exchange for a period equivalent to the notice period for submission of bids, but in no event for a period longer than three days prior to the date fixed for the opening of bids.

Standard Gas requests that the Commission's order herein be entered not later than March 9, 1949 and that it become effective upon issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-1469; Filed, Feb. 24, 1949; 8:67 a. m.]

[File No. 71-3]

TEXAS ELECTRIC SERVICE CO.

NOTICE OF FILING OF ORIGINAL COST STUDIES AND OF PROPOSALS FOR DISPOSITION OF ADJUSTMENTS RELATING TO ELECTRIC PLANT

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of February A. D. 1949.

Notice is hereby given that Texas Electric Service Company ("Texas Electric"), has filed studies and amendments thereto relative to the original cost and reclassification of the company's electric plant accounts as of December 31, 1941. The studies filed include proposals for the disposition of certain adjustments relating to the company's electric plant accounts. Texas Electric is an electric utility subsidiary of American Power & Light Company, a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company. The studies, and amendments thereto, were filed pursuant to the Public Utility Holding Company Act of 1935 particularly sections 15 and 20 (b) thereof and Rule U-27 thereunder.

Notice is further given that any interested person may, not later than March 4, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such re-

quest, and the issues, if any, of fact or law raised by said proposals intended to be controverted, or may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed as follows: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after March 4, 1949, the Commission may take such action as may be deemed appropriate with respect to the matters to which the filing herein relates.

All interested persons are referred to said studies which are on file in the offices of the Commission for a statement of the transactions therein proposed, which may be summarized as follows:

On December 5, 1945 Texas Electric initially filed original cost and reclassification studies of the company's electric plant accounts as of December 31, 1941. The studies were filed in accordance with Plant Instruction 2–D of the Uniform System of Accounts prescribed by the Federal Power Commission for electric utilities. The Federal Power Commission's Uniform System of Accounts for electric utilities is applicable to Texas Electric by virtue of this Commission's Rule U-27, promulgated under the Public Utility Holding Company Act of 1935. In said studies Texas Electric represented that $3,446,718.07 had been reclassified to Account 100.5, Electric Plant Acquisition Adjustments, and $34,082,253.46 to Account 107, Electric Plant Adjustments.

The staff of the Commission made a field examination and filed its report in connection therewith. Copies of the staff's report were submitted to the company. Texas Electric has amended its studies to give effect to the recommendations contained in the staff's report and now proposes to classify an amount of $3,387,240.92 in Account 100.5, Electric Plant Acquisition Adjustments, and an amount of $34,594,063.28 in Account 107, Electric Plant Adjustments.

Prior to the filing of its studies Texas Electric, in 1942 and 1943, disposed of a total of $2,548,573.65 from Account 107 through contra charges of $1,393,390.00 to Account 140, Unamortized Debt Discount and Expense, $995,280.00 to Account 271, Earned Surplus, and $159,903.65 to Account 250, Reserve for Depreciation of Electric Plant.

Also prior to the filing of its study, Texas Electric disposed of an additional amount of $31,851,211.91 from Account 107, pursuant to proposals authorized by an order of this Commission, dated April 20, 1945, issued in connection with certain refinancing transactions of Texas Electric. The foregoing amount was disposed of through contra charges of $31,586,885.85 to Account 271, Earned Surplus, $210,600.16 to Account 151, Capital Stock Expense and $53,725.90 to Account 250, Reserve for Depreciation of Electric Plant. Also pursuant to proposals authorized by the above-mentioned order Texas Electric established a "Reserve for Electric Plant Adjustments" in the total amount of $296,337.87, by a charge to Account 271, Earned Surplus. The foregoing reserve was established for the disposition of such capitalized intra-system profits as might properly be reclassified to Account 107, Electric Plant Adjustments. Because of the adjustments made prior to the filing of the original cost study, and because the adjustments authorized by the Commission's order of April 20, 1945 (based on estimated original cost) were overstated, a balance of only $194,227.72 remains in Account 107, against which a reserve account of $296,337.87 has been established as mentioned above. In addition, and also because of the aforementioned overstatements, American made capital contributions to Texas Electric of $828,183.21 in excess of the amount required for the purpose made and Texas Electric failed to make charges of $726,123.06 to Account 250, Reserve for Depreciation. The excess of $102,060.15 was written off against Account 107.

Pursuant to the terms of the Commission's order of April 20, 1945, Texas Electric was ordered for a period of fifteen years, beginning 30 days after April 20, 1945, to charge annually to Account 537, Miscellaneous Amortization an amount of at least $229,781.20 and to credit such amount to Account 252, Reserve for Amortization of Electric Plant Acquisition Adjustments. At the expiration of the fifteen year period a reserve account of $3,446,718.07 will have been provided, which amount will be $59,477.15 in excess of the adjusted amount in Account 100.5, as determined by the staff and accepted by Texas Electric in its amended statements. In proposing to adopt the staff's recommendations with respect to items to be classified in Account 100.5 by annual charges to Account 537 Texas Electric states that the adoption of such recommendations is without prejudice to its right to contest any order relative to the final disposition of the reserve so established.

Texas Electric proposes to credit Account 270, Capital Surplus with an amount of $828,183.21, to charge Account 250, Reserve for Depreciation with an amount of $726,123.06, and to charge Account 107, Electric Plant Adjustments with an amount of $102,060.15. The result of such proposals will be to rectify certain inappropriate book entries which resulted from the use of the tentative estimates in connection with the 1945 refinancing, and to reinstate a total amount of $296,337.87 in Account 107, against which a reserve account of like amount has, as hereinbefore described, been established.

Texas Electric further proposes that the annual charges of $229,781.20 to Account 537, Miscellaneous Amortization with concurrent credits to Account 252, Reserve for Amortization of Electric Plant Acquisition Adjustments be continued for the period of time necessary to accumulate the adjusted amount of $3,387,240.92 in the reserve amount, which necessary period of time will be slightly shorter than that required by the Commission's order of April 20, 1945.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49–1422; Filed, Feb. 24, 1949; 8:49 a. m.]

[File No. 812–581]

ATLAS CORP.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 18th day of February A. D. 1949.

Notice is hereby given that Atlas Corporation (hereinafter referred to as "Applicant"), a registered investment company, has filed an application pursuant to Rule N-30D–1 of the general rules and regulations under the Investment Company Act of 1940 for an order of the Commission extending until March 15, 1949, the period of time within which applicant shall mail its annual report to stockholders for the year ending December 31, 1948.

By virtue of the provisions of paragraph (a) of Rule N-30D–1, applicant is required to mail its annual report to its stockholders within 60 days after the date as of which the report is made or within such longer period of time as the Commission may permit by order upon application. The fiscal year of the applicant is the calendar year. Thus, the applicant would be required by such rule to mail its annual report for the year ending December 31, 1948 not later than March 1, 1949, unless the Commission by order extends the time within which the report may be mailed to stockholders.

On December 31, 1948, applicant had in its own portfolio 637,250 shares of the Common Stock of Barnsdall Oil Company (hereinafter referred to as "Barnsdall"). On that date Ogden Corporation (77% of whose stock is owned by applicant) owned 135,735 shares of Common Stock of Barnsdall. The market value of the stock of Barnsdall held in applicant's portfolio on December 31, 1948 was $28,516,937, which represented about one-half of its total gross assets of approximately $53,600,000. The market value of the Barnsdall stock owned by Ogden Corporation on December 31, 1948 was $6,074,141 out of total gross assets of $7,384,760.

In view of the large investment of applicant and its subsidiary, Ogden Corporation, in the Common Stock of Barnsdall, mentioned above, applicant believes that its stockholders would be better able to analyze its annual report and to evaluate applicant's year end position if the Barnsdall annual report were made available to applicant's stockholders concurrently with applicant's report. For this reason, it is applicant's intention to mail to its stockholders with its annual report the annual report of Barnsdall for the year ending December 31, 1948.

Inasmuch as applicant had been informed that the Barnsdall annual report would not be ready for mailing until approximately March 15, 1949, applicant had intended, for that reason, to make application for an extension of time within which to mail its annual report. Now applicant is informed that the Barnsdall report may be ready for mailing at an earlier date, to wit, on or about March 1, 1949. Since this date is not certain, however, and the preparation of such report is not within applicant's control, and since applicant has delayed the

preparation of certain portions of its own report pending the preparation by Barnsdall of its report, applicant has filed this application in order to have sufficient time for the preparation and mailing of both such reports together. While applicant will endeavor to mail both such reports at the earliest practicable time, it has filed this application in view of the uncertainties as to whether such mailing could be accomplished on or prior to March 1, 1949.

The application is available for examination at the offices of the Commission.

Notice is further given that an order granting the application may be issued by the Commission on or at any time after February 28, 1949, unless prior thereto a hearing upon the application is ordered by this Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may submit to the Commission in writing, not later than February 25, 1949, at 5:30 p. m., his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or a request to the Commission that a hearing be held thereon. Any such communication or request should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-1424; Filed, Feb. 24, 1949; 8:49 a. m.]

[File No. 812-582]

OGDEN CORP.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 18th day of February A. D. 1949.

Notice is hereby given that Ogden Corporation (hereinafter referred to as "Applicant"), a registered investment company, has filed an application pursuant to Rule N-30D-1 of the general rules and regulations under the Investment Company Act of 1940 for an order of the Commission extending until March 15, 1949, the period of time within which applicant shall mail its annual report to stockholders for the year ending December 31, 1948.

By virtue of the provisions of paragraph (a) of Rule N-30D-1, the applicant is required to mail its annual report to its stockholders within 60 days after the date as of which the report is made or within such longer period of time as the Commission may permit by order upon application. The fiscal year of the applicant is the calendar year. Thus, the applicant would be required by such rule to mail its annual report for the year ending December 31, 1948, not later than March 1, 1949, unless the Commission by order extends the time within which the report may be mailed to stockholders.

On December 31, 1948 applicant had in its own portfolio 135,735 shares of the Common Stock of Barnsdall Oil Company (hereinafter referred to as "Barnsdall"). The market value of the Barnsdall stock owned by applicant on December 31, 1948 was $6,074,141 out of total gross assets of $7,384,760.

In view of the large investment of applicant in the Common Stock of Barnsdall, mentioned above, applicant believes that its stockholders would be better able to analyze its annual report and to evaluate applicant's year end position if the Barnsdall annual report were made available to applicant's stockholders concurrently with applicant's report. For this reason, it is applicant's intention to mail to its stockholders with its annual report the annual report of Barnsdall for the year ending December 31, 1948.

Inasmuch as applicant had been informed that the Barnsdall annual report would not be ready for mailing until approximately March 15, 1949, applicant had intended, for that reason, to make application for an extension of time within which to mail its annual report. Now applicant is informed that the Barnsdall report may be ready for mailing at an earlier date, to wit, on or about March 1, 1949. Since this date is not certain, however, and the preparation of such report is not within applicant's control, and since applicant has delayed the preparation of certain portions of its own report pending the preparation by Barnsdall of its report, applicant has filed this application in order to have sufficient time for the preparation and mailing of both such reports together. While applicant will endeavor to mail both such reports at the earliest practicable time, it has filed this application in view of the uncertainties as to whether such mailing could be accomplished on or prior to March 1, 1949.

The application is available for examination at the offices of the Commission.

Notice is further given that an order granting the application may be issued by the Commission on or at any time after February 28, 1949, unless prior thereto a hearing upon the application is ordered by this Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may submit to the Commission in writing, not later than February 25, 1949, at 5:30 p. m., his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or a request to the Commission that a hearing be held thereon. Any such communication or request should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-1425; Filed, Feb. 24, 1949; 8:49 a. m.]

[File No. 70-2044]

CENTRAL MAINE POWER CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 21st day of February A. D. 1949.

Notice is hereby given that an application has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by Central Maine Power Company ("Central Maine"), a public-utility subsidiary of New England Public Service Company, a registered holding company, which in turn is a subsidiary of Northern New England Company, also a registered holding company. Applicant has designated the third sentence of section 6 (b) of the act as applicable to the proposed transactions.

Notice is further given that any interested person may not later than March 4, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after March 4, 1949, said application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations under the act or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application which is on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Central Maine proposes to issue and sell for cash $5,000,000 principal amount of its First and General Mortgage Bonds, Series R, to be dated March 1, 1949, and to mature March 1, 1979. The company further proposes to offer the bonds at competitive bidding pursuant to Rule U-50. The interest rate, the price at which the bonds will be offered to the public, the commissions to be paid to underwriters and the proceeds to the company will thereafter be supplied by amendment.

On February 1, 1949, this Commission approved, subject to price, spread, and related matters, an application by Central Maine with respect to the issue and sale by the company of 286,496 shares of additional common stock. (Holding Company Act Release No. 8820.) The proceeds from the sale of this stock are

to be applied to the reduction of short-term debt. The issue and sale of bonds which are the subject of the present application are proposed for the stated purpose of retiring an additional $5,000,000 of short-term debt. The application states that Central Maine had outstanding at December 31, 1948, short-term notes aggregating $9,700,000.

In addition to the issue of common stock mentioned above and in addition to the issue of bonds covered by the present application, the company states that it expects in the year 1949 to sell another issue of common stock and another issue of bonds to bring the aggregate proceeds from permanent financing in the year as a whole to $16,000,000, and to leave the company free of short-term debt at the end of the year.

Central Maine states that the proposed issue and sale of securities are solely for the purpose of financing the business of the company and that application is being made to the Public Utilities Commission of Maine, the State commission of the State in which the company is organized and doing business, for authorization of such issue and sale.

The application requests that the Commission's order become effective upon its issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-1474; Filed, Feb. 24, 1949; 9:00 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12821]

FRIEDA LUDWIG

In re: Bank account owned by the personal representatives, heirs, next of kin, legatees and distributees of Frieda Ludwig also known as Frida Ludwig, deceased. F-28-18900-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees, and distributees of Frieda Ludwig also known as Frida Ludwig, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

2. That the property describe as follows: That certain debt or other obligation of State Street Trust Company, State and Congress Streets, Boston, Massachusetts, arising out of a checking account, entitled Frieda Ludwig, maintained with the aforesaid company, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the personal representatives, heirs, next of kin, legatees and distributees of Frieda Ludwig also known as Frida Ludwig, deceased, are aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the personal representatives, heirs, next of kin, legatees and distributees of Frieda Ludwig also known as Frida Ludwig, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 10, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-1412; Filed, Feb. 23, 1949; 8:49 a. m.]

[Vesting Order 12764]

FREDERICKA C. KAESEN

In re: Trust under deed of Fredericka C. Kaesen dated May 8, 1923. File F-28-8304-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hans L. Reusch, Louise Hartenstein and Martha Kaesen Adamek, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the heirs and assigns, names unknown, of Hans L. Reusch, the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Louise Hartenstein, of Martha Kaesen Adamek, and of Fredericka C. Kaesen, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the property described as follows:

A. All right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the trust established under the Deed of Trust dated May 8, 1923, by and between Fredericka C. Kaesen and the Union Trust Company of Maryland, 26 South Street, Baltimore 3, Maryland, presently being administered by the Union Trust Company of Maryland, as Trustee,

B. One-half of any and all income and any other property of any kind or character whatsoever held for the account of Pauline Reusch or her domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, by the Union Trust Company of Maryland, 26 South Street, Baltimore 3, Maryland, as Trustee, under a Deed of Trust dated May 8, 1923, by and between Fredericka C. Kaesen and the Union Trust Company of Maryland, subject, however, to any and all lawful commissions and disbursements of said Union Trust Company of Maryland,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof, and the heirs and assigns, names unknown, of Hans L. Reusch, the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Louise Hartenstein, of Martha Kaesen Adamek, and of Fredericka C. Kaesen, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-1441; Filed, Feb. 24, 1949; 8:55 a. m.]